

§ 1435.3

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

sugarcane, or sugar processed from domestically-produced sugar beets or sugarcane during the 1997 crop year. *Crop year* for the 2002 crop means the period from October 1, 2002 through June 30, 2003. Sugar from desugaring molasses is considered to be from the crop year the desugaring took place.

First processor means a person who commercially produces beet sugar or raw cane sugar, directly or indirectly, from domestically-produced sugar beets or sugarcane, or from molasses or thick juice derived from domestically-produced sugar beets or sugarcane.

Market means, relative to any first processor, the shipment in conjunction with a sale or other disposition, or the forfeiture to CCC, of beet sugar or raw cane sugar by the first processor of such sugar, and the movement of raw cane sugar into the refining process. Beet sugar or raw cane sugar is deemed to be marketed as of the date of shipment from the first processor's facility, the date on which raw cane sugar was moved into the refining process, or the date on which sugar was forfeited to CCC.

Nonrecourse loan means a loan for which the eligible sugar offered as loan collateral may be delivered or forfeited to CCC, at loan maturity, in satisfaction of the loan indebtedness.

Raw sugar means any sugar which is to be further refined or improved in quality.

Raw value of any quantity of sugar means its equivalent in terms of raw sugar testing 96 sugar degrees, as determined by a polarimetric test performed in accordance with procedures recognized by the International Commission for Uniform Methods of Sugar Analysis (ICUMSA). Direct-consumption sugar derived from sugar beets and testing 92 or more sugar degrees by the polariscope shall be translated into terms of raw value by multiplying the actual number of pounds of such sugar by 1.07. Sugar derived from sugarcane and testing 92 sugar degrees or more by the polariscope shall be translated into terms of raw value in the following manner: raw value = $\{[(\text{actual degree of polarization} - 92) \times 0.0175] + 0.93\} \times \text{actual weight}$. For sugar testing less than 92 sugar degrees by the polariscope, derive raw value by dividing the number

of pounds of the "total sugar content" (i.e., the sum of the sucrose and invert sugars) thereof by 0.972.

Recourse loan means a loan that requires repayment in full on or before the maturity date and forfeiture of the sugar does not necessarily satisfy the loan indebtedness.

Sugar means any grade or type of saccharine product derived, directly or indirectly, from sugarcane or sugar beets and consisting of, or containing, sucrose or invert sugar, including all raw sugar, refined crystalline sugar, liquid sugar, edible molasses, and cane syrup.

Sugar beet processor means a person who produces sugar by commercially processing sugar beets or sugar beet molasses.

Sugarcane processor means a person who produces raw cane sugar by commercially processing sugarcane or sugarcane molasses.

Tariff-rate quota means the total of the aggregate quantities of raw cane sugar and other sugars, syrups and molasses established, or subsequently modified, by the Secretary pursuant to the provisions of additional U.S. note 5(a) to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) for imports to be entered, or withdrawn from warehouse for consumption, under subheadings 1701.11.10, 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS or successor subheadings.

[61 FR 37618, July 18, 1996, as amended at 62 FR 34612, June 27, 1997]

§ 1435.3 Maintenance and inspection of records.

(a) CCC, as well as any other U.S. Government agency, has the right of access to the premises of any sugar beet processor, sugarcane processor, cane sugar refiner, or of any other person having custody of records that the examining agency deems necessary to verify compliance with the requirements of this part. The examining agency has the right to inspect, examine, and make copies of such books, records, accounts, and other written or electronic data as the examining agency deems relevant.

(b) Each sugar beet processor, sugarcane processor, and cane sugar refiner or any person having custody of the

records shall retain such books, records, accounts, and other written or electronic data for not less than 3 years from the date:

- (1) A loan is disbursed in accordance with subpart B;
- (2) A marketing assessment is remitted to CCC in accordance with subpart C; and
- (3) Market data are reported to CCC in accordance with subpart D.

Subpart B—Loan Program

§ 1435.100 Applicability.

(a) This subpart is applicable to the 1996 through 2002 crops of sugar beets and sugarcane. These regulations set forth the terms and conditions under which CCC will make recourse and non-recourse loans available to eligible processors. Additional terms and conditions are set forth in the loan application and note and security agreement which a processor must execute to receive a loan.

(b) Loan rates used in administering the loan program are available in FSA State and county offices.

(c) Loans shall not be available for sugar produced from imported sugar beets, sugarcane, or molasses.

§ 1435.101 Administration.

(a) The loan program shall be administered under the general supervision of the Executive Vice President, CCC, (Administrator, FSA) and shall be carried out in the field by FSA State and county committees.

(b) State and county committees, and representatives and employees thereof, may not modify or waive any of the provisions of the regulations of part 1435.

(c) The State committee shall take any action part 1435 requires which the county committee has not taken. The State committee shall also:

- (1) Correct, or require a county committee to correct, a county committee action which is not in accordance with part 1435; or
- (2) Require a county committee to withhold taking any action which is not in accordance with part 1435.

(d) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President,

CCC, (Administrator, FSA) from determining any question arising under the program or from reversing or modifying any State or county committee determination.

(e) The Deputy Administrator, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such requirements do not adversely affect program operation.

(f) A CCC representative may execute loans and related documents only under the terms and conditions CCC determines and announces. Any such document which is not executed in accordance with such terms and conditions, including any purported execution prior to the CCC-authorized date, shall be null and void.

§ 1435.102 Loan types.

(a) CCC will make available to eligible processors of the 1996 through 2002 crops of domestically-produced sugar beets and sugarcane:

(1) Recourse loans if the tariff-rate quota is not above 1,500,000 short tons, raw value, at the time of loan approval and has never been above 1,500,000 short tons, raw value, at any time during the fiscal year;

(2) Nonrecourse loans if the tariff rate quota exceeds 1,500,000 short tons, raw value, at the time of loan approval or has exceeded 1,500,000 short tons, raw value, at any time during the fiscal year.

(b) Outstanding recourse loans will be automatically converted to non-recourse loans if the tariff-rate quota is increased to a level above 1,500,000 short tons, raw value. However, if the recourse loan recipient pays the principal amount of the loan, plus interest, within 30 days from the date the tariff-rate quota was increased, then the loan will be treated for all purposes whatsoever as if it had not been converted to a nonrecourse loan. Once nonrecourse loans are made available, they will not be converted to recourse loans any time during the fiscal year, even if the tariff-rate quota is subsequently reduced to a level equal to, or less than, 1,500,000 short tons, raw value.