

Commodity Credit Corporation, USDA

§ 1435.316

(b) In establishing crop acreage bases, CCC will:

(1) Not consider acreage prevented from planting, and

(2) Consider acreage planted to sugarcane that fails.

(c) In establishing crop acreage bases, CCC will allow producers who have not previously reported their sugarcane acreage to do so by a date CCC determines and announces. Late-filed acreage reports will be accepted as the Deputy Administrator determines appropriate.

(d) The farm's crop acreage base shall be used to determine the farm's proportionate share.

(e) The regulations at part 718 of this title shall apply to this subpart, except reconstitution of farms with a sugar crop acreage base shall not be allowed across State lines.

§ 1435.313 Permanent transfer of acreage base histories under proportionate shares.

(a) A sugarcane producer on a farm may transfer all or a portion of the producer's acreage base history of land owned, operated, or controlled to any other farm in the State that the producer owns, operates, or controls under the Deputy Administrator-issued instructions. The transfer will reduce permanently the transferring farm's sugarcane acreage base history and increase the receiving farm's crop acreage base.

(b) All farm owners must agree in writing to the transfer.

(c) Producers may transfer sugarcane acreage base histories under this section by the date the State FSA committee establishes annually.

§ 1435.314 Temporary transfer of proportionate share due to disasters.

(a) If, for reasons beyond the control of a producer on a farm, such producer is unable to harvest sugarcane acreage relative to all or a portion of the proportionate share established for the farm, the Secretary may preserve, on producer application and written consent of all owners of the farm, for a period of not more than 5 consecutive years, the acreage base history of the farm to the extent of the proportionate share involved.

(b) Such proportionate share may be transferred, with the written consent of all owners of the farm, for 1 crop year to other farm owners or operators subject to the following conditions:

(1) The acreage base history of the transferring farm will be preserved for a period from 1 to 5 years; and

(2) Acreage base history will not be increased on the receiving farm.

(c) Producers who transfer a proportionate share under this section will be required to:

(1) Initiate the transfer in the county FSA office where the proportionate shares are established; and

(2) Obtain approval from the transferring county FSA committee.

(d) All transfers made under this section must be completed by the date the State FSA committee establishes.

§ 1435.315 Adjustments to proportionate shares.

Whenever CCC determines that, because of a natural disaster or other condition beyond the control of producers adversely affecting a sugarcane crop, the amount of sugarcane produced by producers subject to proportionate shares will not be sufficient to enable state processors to produce sufficient sugar to meet the State's cane sugar allotment and provide a normal carryover of sugar, CCC may uniformly allow producers to harvest sugarcane in excess of their proportionate shares, or suspend proportionate shares entirely.

§ 1435.316 Acreage reports for purposes of proportionate shares.

(a) A report of planted and failed acreage shall be required on farms that produce sugarcane for sugar or seed. Such report shall also specify the total acreage intended for harvest for sugar and seed.

(b) The reports required under paragraph (a) of this section shall be on forms prescribed by CCC and shall be filed annually with the county FSA committee by the applicable final reporting date CCC establishes. The farm operator or farm owner shall file such reports.

(c) Acreage reports will be used to determine compliance with proportionate

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shares and acreage bases for future proportionate shares.

(d) An acreage report may be accepted after the established date for reporting if physical evidence is still available for inspection that may be used to make a determination relative to:

- (1) Existence of the crop;
- (2) Use made of the crop;
- (3) Lack of crop; or
- (4) Disaster condition affecting the crop.

(e) The farm operator shall pay the cost of a farm visit by an authorized FSA employee unless the county FSA committee has determined that failure to report in a timely manner was beyond the producer's control.

(f) The farm operator may revise an acreage report. Revised reports shall be filed in accordance with CCC instructions and shall be accepted at any time if:

- (1) Evidence exists for inspection and determination of:
 - (i) Existence of the crop;
 - (ii) Use made of the crop;
 - (iii) Lack of crop; or
 - (iv) Disaster condition affecting the crops.
- (2) The farm has not already been inspected and the acreage already determined or harvesting of sugarcane already begun.

(g) Provisions of part 718 of this chapter will apply for field inspections, tolerance, and variance. Assessments for false acreage reporting will be applied under § 1435.318.

§ 1435.317 Revisions of allocations and proportionate shares.

The Executive Vice President, CCC, may modify any processor's allocation or any producer's proportionate share on the same basis as the initial allocation or proportionate share was required to be established.

§ 1435.318 Penalties and assessments.

(a) Under § 359b(c)(3) of the Agricultural Adjustment Act of 1938, as amended, any sugar beet or sugarcane processor who knowingly markets sugar or sugar products in excess of the processor's allocation in violation of § 1435.307 shall be liable to CCC for a civil penalty in an amount equal to 3 times the U.S. market value, at the

time the violation was committed, of that quantity of sugar involved in the violation.

(b) Under § 359f(c)(5) of the Agricultural Adjustment Act of 1938, as amended, any producer of sugarcane whose farm has a proportionate share, and who knowingly harvests or allows to be harvested an acreage of sugarcane for sugar or seed in excess of the farm's proportionate share shall pay to CCC a civil penalty in an amount equal to 1.5 times the U.S. market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor, for the year in which the violation was committed. However, civil penalties will not be assessed when the producer harvests acreage for sugar or seed in excess of the farm's proportionate share, if the excess sugarcane harvested is:

- (1) Processed by a sugarcane processor that does not exceed its marketing allocation; or
- (2) Diverted to a use other than sugar or seed if:

- (i) The sugarcane producer requests and pays for a CCC field inspection, and
- (ii) CCC verifies the disposition of the excess harvest is not for sugar or seed.

(c) Any penalty assessed under paragraph (b) of this section shall be prorated among the producers of all sugarcane acquired by the processor from excess acres.

(d) Any person filing a false acreage report that exceeds tolerance will be subject to an assessment not to exceed \$10,000. Whenever the failure of a producer to comply fully with the terms and conditions applicable to proportionate shares would result in an assessment, the Deputy Administrator may authorize the waiver or reduction of the assessment in such amounts as determined to be equitable about the seriousness of the failure, the producer's good-faith effort to comply fully with such terms and conditions, and the producer's substantial performance.

(e) Any person who knowingly violates any provision of this subpart other than paragraph (d) of this section is subject to the assessment of a civil penalty by CCC of not more than \$5,000 for each violation.