

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

#### 7 CFR Part 1530

RIN 0551-AA65

#### Sugar Re-Export Program

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Foreign Agricultural Service (FAS) is soliciting comments and views on whether to amend and revise the regulation at 7 CFR 1530 for the purpose of improving and streamlining administration of the sugar re-export program and increasing the effectiveness of the program by implementing changes that would affect its scope and coverage.

**DATES:** Comments should be received on or before June 2, 2003, to be assured of consideration.

**ADDRESSES:** Comments should be sent to: Import Policies and Programs Division, Room 5531—Stop 1021, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250-1021. All written comments received will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Richard J. Blabey, Director, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, (202) 720-2916; fax (202) 720-0876.

#### SUPPLEMENTARY INFORMATION:

##### Background

The current regulation, which became effective February 12, 1999, consolidated three previously separate programs—the Refined Sugar Re-export Program, the Sugar Containing Products Re-export Program, and the Polyhydric Alcohol Program. FAS now has

sufficient experience with the consolidated regulation to propose further enhancements to the program. Basically, the regulation permits sugar refiners in the United States, who have licenses under the regulation, to enter raw sugar unrestricted by the tariff-rate quota provided for in chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) and exempt from the requirement that imports be accompanied by a Certificate for Quota Eligibility (CQE) issued to the foreign exporter in accordance with 15 CFR part 2011. To be eligible for unrestricted entry, licensees must either export an equivalent quantity of refined sugar (as refined sugar or as an ingredient in sugar containing products), or use an equivalent quantity in the production of certain polyhydric alcohols under the terms and conditions of the regulation.

#### Issues for Public Comment

I. With respect to proposed administrative changes, certain practices now routinely authorized under the waiver provision of section 1530.113 of the regulation are being reviewed to determine if they should be incorporated into the regulation. Specifically, the following changes are under consideration, and comments on these specific issues are being requested:

(a) Allowing exports to be conducted by third parties who have been pre-registered on program participants' licenses. The current regulation requires licensees to hold title to goods at the time they leave the U.S. Customs Territory. This provision excludes unlicensed export brokers, consolidators, and trading companies from directly participating in the program and aggressively promoting exports.

(b) Permitting sugar containing product license holders to contract with refiners to toll refine program sugar. The current regulation does not allow a licensed manufacturer of a sugar-containing product to privately source raw cane sugar on the world market and then pay a licensed refiner a fee to enter it into the United States and refine it to the specifications desired by the manufacturer.

(c) Defining program sugar simply as sugar charged or credited to a license balance. The current regulation defines refined sugar as sugar refined from raw cane sugar. The proposed change would

bring the regulation into compliance with the Farm Security and Rural Investment Act of 2002 which states that all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

II. With respect to amending and revising the scope and coverage of the regulation, FAS is soliciting comments regarding the feasibility of the changes proposed below and views regarding how they might be implemented.

(a) Prohibiting the use of stocks in the program that cannot be marketed domestically due to the imposition of domestic marketing allotments. The Department is concerned that the refined sugar re-export program could be used to circumvent the purpose of marketing allotments by the device of exporting blocked stocks for program credits and then using those same credits to supply additional imports of raw cane sugar to the U.S. market.

(b) Broadening the criteria for issuing refined sugar re-export licenses to allow beet sugar refiners to participate in the program. The number of refiners in the program has declined to just three at present because of industry consolidation. The Farm Security and Rural Investment Act of 2002 declared all refined sugars (whether derived from sugar beets or sugarcane) to be fully substitutable. Allowing beet processors to be licensed could extend the program's benefits to additional participants.

(c) Allowing the transfer of program sugar between holders of refined sugar re-export licenses. The current regulation does not allow a refiner having excess credits to sell those credits to a refiner that is short of credits but in need of raw cane sugar.

(d) Allowing polyhydric users to receive transfers of program sugar from refiners without regard to polarity. The current regulation only allows the transfer of fully refined sugar to a producer of a polyhydric alcohol. Because these alcohols can be produced from sugar of lower polarity, the current regulation results in needless costs for some polyhydric alcohol producers.

(e) Allowing holders of refined sugar re-export licenses to hold sugar containing product licenses. The current