

Presidential Documents

Title 3—

The President

Proclamation 6576 of July 1, 1993

National Youth Sports Program Day, 1993

By the President of the United States of America

A Proclamation

The National Youth Sports Program (NYSP) provides economically disadvantaged children between the ages of 10 through 16 opportunities to earn and learn self-respect through a comprehensive sports and educational instruction program. Today, in its 25th year, the NYSP serves more than 69,000 young people at 173 colleges and universities in 44 States and the District of Columbia.

The children who participate in the program receive supervised training in sport competitions, personal health care, proper nutrition, and free medical and follow-up examinations. They obtain information on drug and alcohol abuse and are taught about good study habits. Career and educational opportunities in math and science are also offered. In addition to the benefits provided to the children, the NYSP enables staff at the participating institutions to become involved in their communities and in providing solutions to community problems.

For more than 25 years, the NYSP has worked to develop effective partnerships with several Federal agencies and departments and with the Nation's colleges and universities acting through the National Collegiate Athletic Association. These unique partnerships have allowed Federal funds to be used to provide direct services for youth, have enabled institutions to contribute their facilities and personnel, and have permitted public and private businesses to donate equipment and supplies needed for the children to participate in the program during the summer.

By utilizing competitive sports as a means of expression, it has allowed these children to express their pain and deal with their difficult living conditions in a positive way, rather than in a self-destructive manner. For many of these children, a sense of accomplishment and empowerment has taken the place of despair. I urge all Americans to join me on this special day to celebrate the significant gains that NYSP's 25 years of service has provided to these children.

The Congress, by Senate Joint Resolution 88, has designated July 1, 1993, as "National Youth Sports Program Day" and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim July 1, 1993, as National Youth Sports Program Day. I call upon all Americans to observe this day by demonstrating their respect for all those individuals who participate so successfully in these programs and by showing gratitude for those who unselfishly share their experiences, skills, and talents with the disadvantaged youths who participate in NYSP activities across the country.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of July, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William Clinton

[FR Doc. 93-16038

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Rules and Regulations

Federal Register

Vol. 58, No. 127

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 230 and 250

RIN 3206-AA66

Organization of the Government for Personnel Management; Personnel Management in Agencies

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting in part its proposed regulations to reorganize and consolidate regulations contained in parts 230 and 250. The changes are part of OPM's effort to streamline its regulations and represent a move toward structural consistency between them and title 5 of the United States Code. Specifically, this revision transfers the regulations in subpart B of part 230 relating to the exercise of agency authority to take personnel actions to 5 CFR part 250, subpart A. The regulations in subpart D of part 230 relating to agency authority to take personnel actions in a national security emergency are not transferred to subpart B of part 250, as was indicated in the proposed regulations. Changes to these subpart D regulations, if any, will be made as part of a future OPM review of its national security emergency preparedness program regulations and guidance. Consideration will be given in that review to subpart D issues raised in comments on the proposed rule.

EFFECTIVE DATE: August 5, 1993.

FOR FURTHER INFORMATION CONTACT: Bruce Oland, (202) 606-2458.

SUPPLEMENTARY INFORMATION: The changes effected by this final rule were published for comment at 56 FR 21330 on May 8, 1991, and distributed to heads of Departments and Independent Establishments in Federal Personnel

Manual Bulletin 250-14 on May 23, 1991. In the 60-day period provided for comment ending on July 8, 1991, OPM received comments from a labor organization, the American Federation of Government Employees (AFGE), and from an agency, the Department of Defense (DOD). OPM also received written comments from the Federal Emergency Management Agency (FEMA) following the close of the formal 60-day comment period.

AFGE suggested that delegation agreements addressed in § 250.102 of the proposed regulations be identified specifically as those which are made between OPM and agency headquarters. While delegations usually are granted at the headquarters level, in some situations they may be delegated to a lower level in the agency. Therefore, we have not adopted the suggestion because it would not cover all situations for which these regulations are intended to apply.

AFGE also suggested that § 250.103 be revised by using the wording in the current regulation; namely, that the word "action" be followed by the qualifying phrase "under a delegated agreement" . . . This change is not adopted because OPM's enforcement authority for regulations it administers extends beyond agency actions taken under delegation agreements.

AFGE, DOD, and FEMA suggested several changes to the proposed subpart B of part 250. As noted in the Summary above, these comments will be considered in a future OPM review of its national security emergency preparedness program regulations and guidance, including part 230, subpart D, where the regulations commented on currently reside.

Related guidance in Chapters 230 and 250 of the Federal Personnel Manual also will be revised and updated as part of this effort. Comments and suggestions for improving this FPM guidance are welcome.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to the internal management of Federal agencies and

does not substantively change existing regulations.

List of Subjects

5 CFR Part 230

Civil defense, Government employees.

5 CFR Part 250

Authority delegations (Government agencies), Civil defense; Government employees.

U.S. Office of Personnel Management.

Patricia W. Lattimore,
Acting Deputy Director.

Accordingly, OPM is amending 5 CFR parts 230 and 250 as follows:

PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

1. The authority citation for part 230 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954-1958 Comp., p. 218.

2. In part 230, subpart B is removed and reserved.

PART 250—PERSONNEL MANAGEMENT IN AGENCIES

3. The authority citation for Part 250 is revised to read as follows:

Authority: 5 U.S.C. 1101 note, 1104, 1302, 3301, 3302; E.O. 10577, 12 FR 1259, 3 CFR, 1954-1958 Comp., p. 218.

4. Part 250 is amended by revising subpart A to read as follows:

Subpart A—Authority for Personnel Actions in Agencies

Sec.

250.101 Standards and requirements for agency personnel actions.

250.102 Delegation agreements.

250.103 Taking corrective action or suspending or withdrawing agency authority.

Subpart A—Authority for Personnel Actions in Agencies

§ 250.101 Standards and requirements for agency personnel actions.

In taking a personnel action authorized by this chapter, each agency shall comply with the qualification standards and regulations issued by the Office of Personnel Management, the instructions published by OPM in the Federal Personnel Manual, and the provisions of any agreement development between OPM and the

agency in connection with delegation of a specific authority. When a personnel action is being taken as a result of an order of a Court or a settlement agreement, or a decision or order of or a settlement agreement or an arbitral award reached under the labor arbitration process or the rules and regulations of the Merit Systems Protection Board, the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or OPM, the agency shall follow the instructions in Federal Personnel Manual Chapter 296, and must comply with all other relevant substantive and documentary requirements, including those applicable to retirement, life insurance, and health benefits.

§ 250.102 Delegation agreements.

In certain circumstances, an agency will receive authorities through a delegation agreement developed between the agency and OPM. The agreement will set forth the conditions for application of the delegated authorities. The agreement will include a description of minimum standards of performance and the system of oversight to be used by the agency and by OPM in monitoring the use of each delegated authority.

§ 250.103 Taking corrective action or suspending or withdrawing agency authority.

If OPM finds that an agency has taken an action contrary to a law, rule, regulation, or standard which OPM administers, it may require the agency to take corrective action. OPM may suspend or withdraw any authority granted under this chapter to an agency, including any authority granted by delegation agreement, when it finds that the agency has not complied with qualification standards issued by OPM, the instructions published by OPM in the Federal Personnel Manual, or the regulations in this chapter; or that the suspension or withdrawal is in the interest of the service for any other reason. OPM may suspend or revoke a delegation agreement established under § 250.102 at any time, if it judges that the agency is not adhering to the provisions of the agreement.

[FR Doc. 93-15806 Filed 7-2-93; 8:45 am]
BILLING CODE 5325-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1435

RIN 0560-AC14

Sugar and Crystalline Fructose Marketing Allotment Regulations for Fiscal Years 1992 Through 1996

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule sets forth regulations to implement the provisions of part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938, as amended (the 1938 Act), with respect to marketing allotments for sugar processed from domestically produced sugarcane and sugar beets and crystalline fructose manufactured from corn for the fiscal years 1992 through 1996.

DATES: This interim rule is effective June 30, 1993. Comments must be received on or before August 5, 1993, in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim rule. Comments should be mailed or delivered to the Deputy Administrator for Program Analysis (DAPA), Agricultural Stabilization and Conservation Service (ASCS), room 3090, South Agriculture Building, U.S. Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013-2415. Comments received may be inspected between 9 a.m. and 4:30 p.m., Monday through Friday except holidays, in room 3727, South Agriculture Building, USDA, 14th Street and Independence Avenue, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert D. Barry, Director, Sweeteners Analysis Division, ASCS; telephone: 202-720-3391.

SUPPLEMENTARY INFORMATION: As a result of extensive comments on, and changes to, the proposed rule, the Commodity Credit Corporation (CCC) has chosen not to make the proposed rule final but to provide further opportunity for comments. However, CCC has determined that an interim rule should be promulgated in order to permit the immediate implementation of marketing allotments if necessary.

Executive Order 12291 and Departmental Regulation 1512-1

This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and

Departmental Regulation 1512-1 and has been classified as a "major" rule. It has been determined that the provisions of this interim rule may result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States (U.S.)-based enterprises to compete in domestic or export markets.

Regulatory Flexibility Act

It has been determined the Regulatory Flexibility Act is applicable to this interim rule. A Final Regulatory Impact Analysis was prepared, which determined that this regulation will have no significant impact on a substantial number of small entities because the particular marketing allotment options considered will not affect the paperwork, reporting, or compliance burdens of the small entities in the program. The CCC thus certifies that the rule will have no significant economic impact on a substantial number of small entities. The Final Regulatory Impact Analysis describing the options considered in developing this interim rule and the impact of the implementation of each option is available on request from the above-named individual.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this interim rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this interim rule applies are: Commodity Loans and Purchases; 10.051.

Paperwork Reduction Act

The amendments to 7 CFR part 1435 set forth in this interim rule impose information collection and reporting requirements on the public. The information collection requirements have been submitted to the Office of Management and Budget (OMB) for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The public reporting

burden for these collections of information is estimated to average 90 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and computing and reviewing the collection of information.

Executive Order 12372 and Executive Order 12778

The programs covered by this interim rule are not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this interim rule preempt State law to the extent such laws are inconsistent with the provisions of this interim rule. This interim rule is not retroactive. Before any action may be brought regarding the provisions of this interim rule, the administrative appeal rights set forth at 7 CFR part 780 must be exhausted.

Statutory Background

Title IX of the Food, Agriculture, Conservation, and Trade Act of 1990 (the "1990 Act"), which was enacted on November 28, 1990, amended subtitle B of title III of the 1938 Act to provide, in a new part VII, under certain circumstances, for the establishment of marketing allotments for sugar and crystalline fructose for fiscal years 1992 through 1996. Section 111 of the Food, Agriculture, Conservation, and Trade Amendments Act of 1991 (the "Technical Corrections Act"), which was enacted on December 13, 1991, amended several portions of the 1938 Act's marketing allotment provisions. Public Law 102-535, which was enacted on October 27, 1992, further amended provisions pertaining to penalties for producers in Louisiana who harvest acreage in excess of proportionate shares.

Summary of Comments

A proposed rule to implement the 1938 Act's provisions for sugar marketing allotments was published on March 25, 1993 (58 FR 16126). Forty-two comments were received from interested persons regarding the proposed regulations: 14 from sugar beet grower organizations, 9 from sugar beet refining companies, 4 from members of the cane industry, 3 from farm bureaus, 3 from members of Congress, 3 from the corn sector, 2 from foreign interests, 1 from a sugar beet grower, 1 from a sugar

user group, 1 from a sugar trader, 1 signed by 8 beet processing companies, and 1 signed by representatives of the entire cane sugar industry, 2 sugar beet processing companies, and 1 State sugar beet growers' association.

Discussion of Comments

1. The major issue addressed in the comments was the 3-factor criteria used to establish the percentage factors for splitting the overall marketing allotment between the cane and beet sectors. Thirty-nine comments dealt with the weights to be assigned to each of the 3 criteria—past marketings, processing capacity, and ability to market. Recommendations for weights varied greatly. Nine comments recommended that "past marketings" should carry the most weight, from 80 to 100 percent, but 6 comments suggested that "past marketings" should be given equal or less weight than the other two criteria. Recommended weights for "ability to market" were 100 percent, 80 percent, 45 percent, 33 1/3 percent, and 0 percent. Recommended weights for "processing capacity" were 45 percent, 33 1/3 percent, 15 percent, and 0 percent. Six comments favored flexibility in assignment of weights for a variety of reasons, while four comments opposed flexibility.

CCC continues to believe that the weights for the 3-factor criteria provided in the proposed rule—33 1/3 percent for each of the 3 criteria—are appropriate for the purposes of the statute. The appropriateness is based on the view that all three components of the U.S. sugar processing industry—sugar beet processors, sugarcane processors, and cane sugar refiners—serve necessary roles. At the same time, Congress did not intend that the industry be rigidly frozen in fixed market shares but intended to allow for the evolutionary growth of competition.

At 100-percent weight for "past marketings", beet sugar's share would be about 51 percent, and cane sugar's share would be about 49 percent. At 100-percent weight for "ability to market", beet sugar's share would rise to 54 percent, and cane sugar's share would drop to around 46 percent. However, the statute does not permit 100-percent weight to any one factor; all 3 factors are required to be used. Equal weights for the 3-factor criteria would provide beet sugar about 53 percent of the overall allotment and cane sugar about 47 percent. Because beet sugar now accounts for some 56 percent of U.S. sugar production, marketing allotments using equal weights would result in surplus beet sugar that cannot be marketed in the United States,

whereas cane sugar would be in deficit relative to its allotment. The margin of deficit, if not reassigned, would benefit cane refiners in the form of additional imports above the level of 1.25 million tons, raw value.

2. Recommendations also varied on the definitions for the 3-factor criteria. CCC believes that the definitions of the 3-factor criteria are intended to provide a balance and should be viewed not as isolated categories but as a totality. While "past marketings" from the 1985-89 crops is a fixed quantity, "processing capacity" will vary over time, and "ability to market" provides the most current but changeable criterion.

Five comments wanted "past marketings" to be defined as the average of marketings from the two highest crop years in the base period (1985-89), while one comment suggested a 2-year "weighted" moving average. Two comments favored the average of all the 5 years in the base period, and one recommended an average of the 5 crop years preceding the current crop.

The 1938 Act requires that "past marketings" be defined as the average of marketings from the two highest 1985-89 years for purposes of determining State cane allotments, but it is silent on how the 1985-89 years are to be used for dividing the overall marketing allotment between the beet and cane sectors or for making allocations among processors. CCC proposed to define "past marketings" as the average of the 1985-89 years, excluding the highest and lowest crop-years. CCC continues to believe that such an olympic average is more representative of the 1985-89 period than the average of the two highest crop years or the average of all five years. CCC has no discretion to define past marketings so as to include crop years outside of the statutorily prescribed 1985-89 base period.

Four comments concerned the definition of "processing capacity", with two favoring the highest crop year in the 1985-89 base period, one preferring the highest crop in the most recent 5-year period including the current crop, and another preferring the highest crop in the most recent 3-year period.

CCC believes that the 1985-89 base period has little relevance to current plant capacity and that the inclusion of production for the current crop year would have the tendency to exaggerate capacity. The current crop can be grossly unpredictable, particularly if estimates are made early in the fiscal year. Furthermore, an allowance for the most-up-to-date potential production is already included in the third factor ("ability to market").

One comment wanted to exclude sugar from desugared molasses in the definition of "ability to market".

CCC recognizes that desugaring technology has been developed and implemented. Sugar produced through this new process cannot be ignored any more than sugar produced through older technologies.

3. Twenty-two comments were received regarding allocations of the marketing allotments.

CCC had asked for comments on the sale, lease, or auction of allocation rights. Three comments opposed the auction, sale, or lease of allotments, seven more comments opposed the auction of allotments, and only 5 comments were in favor of any of these three actions.

The disposition of the allocation of a facility closing or curtailing operations was a concern of 3 comments. Their recommendations were (1) transfer the allocation to nearby processors who can service affected sugar beet growers, (2) transfer each grower's production history to other processors in the same State, and (3) divide production history among the entire beet and cane industry rather than one sector.

Under the provisions in the 1938 Act, allocations are not made on a facility basis but rather on a processor basis and allotments are made on the basis of sectors and cane States. The closure of a facility would not immediately affect any of the data used to determine the percentage factors for dividing the overall allotment quantity among the beet sugar and cane sugar sectors or the division of the cane sugar allotment among the five cane sugar States, except to the extent that it reduces the sector's or State's ability to market sugar. Even at the processor level, a plant closing would have no effect on past marketings and would reduce processing capacity after five years, if the former production by the closed facility were not offset by increased production at other facilities owned by the processor. Once a facility is shut down, CCC would have to assess whether the processor's ability to market would be affected, and if the processor were placed in a "deficit" due to the closure of a facility, CCC would reassign the deficit according to the normal procedures.

Two comments recommended that sugar from desugared molasses be given lower priority in allocations and 1 comment suggested that allocations be assigned to molasses desugaring plants rather than to the plant that was the original source of the molasses.

CCC will treat sugar derived from desugaring molasses on the same basis as any other sugar is treated, and its

production will affect the allocation of the processor who produces it.

One comment called for allowances for new processors. CCC notes that the sugar marketing allotment provisions of the 1938 Act do not provide for special treatment for new entrants. Such processors will be unable to acquire a past marketings status but may acquire processing capacity and the ability to market sugar.

Regarding a "minimum" allocation, 1 comment opposed any minimum while another comment requested that a minimum allocation be guaranteed so as to permit the financial viability of a company. CCC will allocate allotments according to the criteria mandated by the 1938 Act without providing an absolute guarantee of a minimum allocation to any processor.

4. Several comments pointed out that the proposed rule would require the "payback" of a processor's excess marketings over an allocation by the sector (beet or cane) in the next year when marketing allotments are in effect. CCC accepts that the statute provides for payback by the processor but not by the sector as a whole and has rewritten the regulations accordingly. Since such paybacks would essentially result in a deficit in the year in which they are required, CCC will reassign any payback amounts according to the rules for reassigning deficits in order to avoid shorting the market.

Two comments suggested that the payback penalty for any marketing in excess of an allocation should be absolved if marketing allotments are not in effect in the immediately next fiscal year. However, the 1938 Act explicitly states that such penalty be imposed in the next year allotments are in effect, even if an interval occurs in allotment years.

5. For the definition of "sugar", 5 comments wanted liquid fructose derived from sucrose to be excluded, 2 comments wanted invert sugar to be included in the definition, and 2 wanted invert sugar to be excluded.

CCC's view, based on well-established definitions of sugar and sucrose, is that invert sugar and fructose from sucrose are sugar, rather than sugar products. Sugar products which are not subject to allotment would consist of products, other than sugar, whose majority content is not sucrose or which are not suitable for human consumption. Permitting invert sugar and liquid fructose derived from sucrose to be exempt from marketing allotments would be a circumvention of the purposes of the statute.

6. Seven comments claimed that the proposed timing for a hearing on the

allocations was too short.

Recommendations ranged from the 5th to the 15th work day after the request for the hearing, and 1 comment wanted a comment period prior to the hearing and another after the hearing. CCC agrees that the proposed timing for a hearing on the allocations was too rigid and has deleted the specific time by which a hearing will be held after the request for such a hearing and will schedule such hearing based upon all relevant factors that exist at that time.

7. There were 6 comments on reassignment of deficits. Three of the comments involved the timing of a processor's certification of a deficit: 2 recommended 45 days prior to the end of the fiscal year, and 1 recommended within 10 days of the allocation.

The proposed rule did not specify, but the 1938 Act states, that the Secretary, from time to time, shall determine whether any processor will be unable to fill its allocation. CCC believes that 45 calendar days is too close to the end of the fiscal year to permit sufficient opportunity for reassignments and the logistical requirements involved. Instead, CCC would assess the data submitted by each sugar processing company together with other USDA information, from time to time, to determine and reassign the deficits to other processors with due consideration of current inventories of sugar, estimated production of sugar, expected marketings, and any other pertinent factors.

8. Some beet processors indicated that, in the event of marketing allotments, imports should not exceed 1.25 million tons. The 1938 Act clearly states, however, that in the event processors have a deficit which cannot be filled by other processors in the same sector (beet or cane), such deficit will be reassigned to imports, without any requirement that imports cannot exceed 1.25 million tons.

9. Two comments questioned the proposed rule's provision that 159,757 short tons of crystalline fructose is the equivalent of 200,000 tons of sugar, raw value (the marketing allotment for crystalline fructose in the event of allotments). CCC has sought to provide latitude for the marketing of domestically manufactured crystalline fructose from corn, by selecting the minimum superior sweetness equivalent of crystalline fructose to refined sugar (a 1.17-to-1.00 ratio), which is based upon well-established scientific tests. CCC had also considered a sweetness equivalence of 1.50-to-1.00 based on the average sweetness of crystalline fructose among different products in which it is used. The comments contend that

crystalline fructose is a premium product to sugar, and that sweetness is only one aspect of crystalline fructose's superiority to sugar. Furthermore, the comments contend that because crystalline fructose is higher priced by a factor of 1.5, crystalline fructose's equivalence to 200,000 tons of raw sugar should be 256,410 tons of crystalline fructose ($200,000 \times 1.5 / 1.17$). However, if crystalline fructose is a premium product to sugar, then less (not more) of crystalline fructose would be equivalent to the sugar quantity of 200,000 tons. Furthermore, the 1.5 factor which is the price premium depends not just on the inherent quality of crystalline fructose relative to sugar but on transient market conditions, including variable competitive relationships among alternative sweeteners.

10. The 3-factor criteria for establishing sugar allotments was also used in the proposed rule for the purpose of establishing allotments of crystalline fructose among U.S. manufacturers. Objections were raised because, unlike sugar, crystalline fructose was not manufactured until 1987 and therefore the 1985-89 base period has limited applicability. CCC agrees and will use the highest year's production in the preceding 5 fiscal years as the basis for establishing the allotments for crystalline fructose manufacturers.

11. Two comments proposed, respectively, that "reasonable carry-over stocks" should be defined as no less than a 14.5 percent stocks-to-use ratio or a moving 5-year stocks-to-consumption average.

CCC will determine what carry-over stocks are deemed "reasonable" based on a comprehensive review of the market. While the proposed, essentially mechanical, procedures might be helpful, they are considered insufficient for a complete evaluation of the market. Therefore CCC does not agree with the proposals.

12. A comment proposed that if marketing allotments are implemented in the third or fourth quarter of a fiscal year, that allotments should also be established for the next fiscal year. However, the 1938 Act requires CCC to review and reestimate the sugar market every quarter and CCC believes it would be premature to establish allotments for the next fiscal year substantially before the current one expires. Furthermore, data for the next fiscal year can be highly conjectural before July.

13. A comment requested that the sugar content in sugar-containing product imports should be estimated and counted in calculating the market allotment import estimate (MAIE).

However, the statute does not authorize CCC to include such imports in calculating the MAIE, which is calculated on the basis of domestic production, consumption, and stocks rather than actual imports of sugar.

14. Several comments were made on the definition of "marketing." One suggestion was that if sugar pledged as collateral for a CCC price support loan is redeemed, the sugar should no longer be considered marketed. CCC agrees that the marketing of sugar which had been pledged as collateral for a price support loan and then redeemed would not be counted a second time against the processor's allocation because the processor's allocation would have been charged when the sugar was pledged as collateral. CCC notes that there is no comparable statutory exemption from double counting for sugar pledged as loan collateral and then disposed of in commerce by forfeiture to the CCC.

Three comments proposed a number of sales transactions to define more clearly and specifically what constitutes marketing. CCC recognizes that if marketing allotments are imposed there would be difficulties in resolving futures contracts. Nonetheless, CCC is obliged to use the statutory definition of marketing, which is the sale or other disposition of sugar. Normally, a sale of goods occurs when title to the goods transfers from the seller to the buyer. Generally, under the Uniform Commercial Code, title transfers according to the contract of the parties but no sooner than the time when specific goods are identified to the sales contract and no later than when the goods are accepted by the buyer. Use of the normal commercial understandings of sales will facilitate administration of this program.

15. One comment asked that beet processors be allowed to swap sugar with domestic cane sugar refiners. CCC notes that section 359(c) of the 1938 Act prohibits using beet sugar to fill the cane sugar allotment or vice versa.

Two comments proposed that a processor with a surplus of beet sugar relative to its allocation should be allowed to market the sugar domestically if an equal quantity of sugar is "swapped" with a cane refinery's export of domestically produced sugar. Such a swap, it is claimed, would not change the domestic sugar supply while permitting sugar to be marketed at lower cost. However, CCC has limited authority, principally related to quarterly reestimates of consumption, production, and stocks, to alter the overall allotment quantity or the beet sugar or cane sugar allotments. Certainly the export of refined cane

sugar, which is not even subject to marketing allotments, is not grounds under the 1938 Act for increasing the beet sugar allotment or the allocation of any beet sugar processor. Moreover, control of the sugar supply would be made unduly difficult by such swaps because of a cane refinery's several sources of supply, including tariff-rate quota imports and imports under the re-export program. Therefore, CCC does not agree with the proposal.

16. One comment proposed that, for companies that are not cooperatives, penalties be imposed only on the processor's share, as determined by the producer-processor contract, of the market value of sugar sold in excess of an allocation. The 1938 Act does not provide for the imposition of civil penalties in the manner proposed. Accordingly, the comment is not adopted.

17. The following miscellaneous comments were received but were considered to be outside the limits of this rulemaking or clearly contrary to the provisions of the 1938 Act: (1) For Hawaii, all the processors' allocations should be combined into one State allotment; (2) Proportionate shares should be calculated for sugar beet States; (3) USDA should withdraw the rule and ask Congress to change the law; (4) Processors should not have the right to purchase sugar to fill a marketing allocation; (5) Growers should share in the net revenue from a processor's purchase of sugar to fill an allocation; (6) In order to avoid allotments, imports of sugar products should be restricted; (7) Price support levels should be reduced by 10 percent; (8) Incentives should be made to increase exports of sugar-containing products; (9) In order to avoid forfeitures, the tariff-rate quota amount should be reduced to 1.25 million short tons; (10) Forfeitures in one year should be deducted from the next year's allocation to the processor who forfeited; (11) Allocations of U.S. shortfalls among foreign suppliers should be made on the basis of historical shares; and (12) Marketing controls should be placed on Mexico's producers if the North American Free Trade Agreement becomes effective.

List of Subjects in 7 CFR Part 1435

Loan programs (agriculture), Marketing allotments, Price support programs, Reporting and recordkeeping requirements, Sugar.

Accordingly, 7 CFR part 1435 is amended by adding a new subpart (§§ 1435.500 through 1435.529) as follows:

PART 1435—SUGAR**Subpart—Marketing Allotments for Sugar and Crystalline Fructose**

Sec.

- 1435.500 Applicability.
- 1435.501 Administration.
- 1435.502 Definitions.
- 1435.503–1435.506 [Reserved]
- 1435.507 Annual estimates and quarterly re-estimates.
- 1435.508 Establishment and suspension of allotments.
- 1435.509 Overall allotment quantity.
- 1435.510 Adjustment of overall allotment quantity.
- 1435.511 Beet sugar and cane sugar allotments.
- 1435.512 State cane sugar allotments.
- 1435.513 Allocation of marketing allotments to processors.
- 1435.514 Reassignment of deficits.
- 1435.515–1435.519 [Reserved]
- 1435.520 Sharing processors' allocations with producers.
- 1435.521 Proportionate shares for producers of sugarcane.
- 1435.522 Establishment of acreage bases for purposes of proportionate shares.
- 1435.523 Permanent transfer of acreage base histories for purposes of proportionate shares.
- 1435.524 Temporary transfer of proportionate shares due to disasters.
- 1435.525 Adjustments to proportionate shares.
- 1435.526 Acreage reports for purposes of proportionate shares.
- 1435.527 Crystalline fructose allotment.
- 1435.528 Penalties and assessments.
- 1435.529 Appeals.

Authority: 7 U.S.C. 1359aa–1359jj; 15 U.S.C. 714b and 714c.

Subpart—Marketing Allotments for Sugar and Crystalline Fructose**§ 1435.500 Applicability.**

(a) The regulations of this subpart are applicable to the establishment and allocation of marketing allotments for:

- (1) The marketing by processors during fiscal years 1992 through 1996 of sugar processed from domestically produced sugarcane and sugar beets;
 - (2) The marketing by manufacturers, during fiscal years 1992 through 1996, of crystalline fructose manufactured from corn;
 - (3) The distribution of the processor's allotment allocation to producers; and
 - (4) The harvesting of sugarcane by producers subject to proportionate shares.
- (b) The regulations of this subpart do not apply to:
- (1) The marketing of imported raw or refined sugar or imported crystalline fructose;
 - (2) The marketing of sugar processed from imported sugarcane or sugar beets;
 - (3) The marketing of liquid fructose from corn; or

(4) The exportation of sugar or crystalline fructose from the customs territory of the United States.

(c) The provisions of this subpart are applicable throughout the United States, including Puerto Rico and the District of Columbia.

§ 1435.501 Administration.

The provisions of this subpart shall be administered under the general supervision of the Executive Vice President, CCC (Administrator, ASCS), and shall be carried out in the field by State and county ASC committees (State and county committees), respectively.

(a) State and county committees, and their representatives and employees, do not have authority to modify or waive any provisions of this subpart.

(b) The State committee shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, an action which is not in accordance with the regulations of this subpart; or

(2) Require a county committee to withhold taking any action which is not in accordance with the regulations of this subpart.

(c) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President, CCC (Administrator, ASCS), or a designee, from determining any questions arising under this subpart or from reversing or modifying any determination made by a State or county committee.

(d) The Executive Vice President, CCC (Administrator, ASCS), or a designee, may authorize State or county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not affect adversely the operation of this subpart.

§ 1435.502 Definitions.

The definitions set forth in this section are applicable throughout this subpart. The definitions contained in parts 718 and 719 of this title and part 1413 of this chapter are also applicable and are incorporated by reference.

Ability to market means, for purposes of determining allotments or allocations, the estimated quantity of sugar, raw value, as determined by CCC, that will be produced in the sector or State or by the processor, as appropriate, during the crop year beginning on the July 1st which immediately precedes the fiscal year for which marketing allotments are

in effect and such ability to market is being determined.

Allocation means the division of the beet sugar allotment among the sugar beet processors in the United States and the division of each State's cane sugar allotment among the sugarcane processors of that State.

ASCS means Agricultural Stabilization and Conservation Service.

Beet sugar means sugar, whether or not principally of crystalline structure, which is processed directly or indirectly from domestically produced sugar beets, including sugar produced from sugar beet molasses.

Beet sugar allotment means that portion of the overall allotment quantity allocated to sugar beet processors.

Cane sugar means sugar derived directly or indirectly from sugarcane produced in the United States, including sugar produced from sugarcane molasses.

Cane sugar allotment means that portion of the overall allotment quantity allocated to sugarcane processors.

Cane syrup means concentrated cane juice from which no sucrose has been extracted.

Carry-in stocks means inventories of sugar owned by sugar beet processors, sugarcane processors, cane sugar refiners, and CCC and physically located in the United States at the beginning of the fiscal year.

CCC means the Commodity Credit Corporation.

Crop year means the period beginning July 1 and ending June 30 of the following calendar year, with the customary allowance for a continuous harvest that goes beyond June. For example, the "1991 crop" within the context of this subpart means sugar processed from domestically produced sugar beets or sugarcane harvested during the 1991 crop year, starting on July 1, 1991 and ending on June 30, 1992. The "1991 crop" includes sugar processed from molasses or thick juice produced from domestically produced sugar beets or sugarcane harvested during the 1991 crop year.

Crystalline fructose means a monosaccharide and reducing sugar, manufactured from field corn, appearing as free-flowing white crystals with the chemical formula $C_6H_{12}O_6$ and molecular weight of 180.16 and meeting the specifications of the *Food Chemicals Codex* (Third Edition, as amended in Third Supplement, 1991) of the National Research Council.

Crystalline fructose allotment means the total quantity of crystalline fructose—159,757 tons—that may be marketed by manufacturers of crystalline fructose in any fiscal year in

which marketing allotments are in effect.

Crystalline fructose manufacturer's allotment means that portion of the crystalline fructose allotment allocated to a manufacturer of crystalline fructose.

DASCO means the Deputy Administrator, State and County Operations, ASCS.

Deficit means the quantity of sugar covered by an allocation of an allotment that CCC estimates a sugar beet processor or sugarcane processor will be unable to market during the fiscal year in which marketing allotments are in effect.

Edible molasses means molasses which is not to be further refined or improved in quality and which is to be distributed for human consumption, either directly or in molasses-containing products.

Farm means that entity as defined in § 719.3 of this title, except that when a State is subject to the implementation of proportionate shares, producers will not be allowed to have farms reconstituted across State lines even if the farm land is adjoining.

Fiscal year means the year beginning October 1 and ending the following September 30. For example, fiscal 1993 begins October 1, 1992 and ends September 30, 1993.

Imports means sugar originating in foreign countries or areas and entered, or to be entered, into the customs territory of the United States.

Invert sugar means a mixture of glucose (dextrose) and fructose (levulose) formed by the hydrolysis of sucrose.

Liquid sugar means a direct-consumption sugar which is not principally of crystalline structure and which contains, or which is to be used for the production of any sugars principally not of crystalline structure which contain, soluble nonsugar solids (excluding any foreign substances that may have been added or developed in the product) equal to 6 percent or less of the total soluble solids. Liquid sugar is exclusive of cane syrup and edible molasses.

Market or Marketing means the sale or other disposition of sugar or crystalline fructose in commerce in the United States, including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process.

Molasses means a thick syrup which is a byproduct of processing sugar beets or sugarcane or of refining raw cane sugar.

Normal carryover inventory means sugarcane processors' inventory on hand at the end of the fiscal year,

calculated as the previous 5-year-average ratio of carryover inventory to production, multiplied by current estimated production. Normal carryover inventory applies only to Louisiana and is not synonymous with "reasonable ending stocks".

Overall allotment quantity means, on a national basis, the total quantity of sugar, raw value, which is processed from domestically produced sugarcane or sugar beets, and the raw value equivalent of sugar in sugar products, that is permitted to be marketed by processors, during a fiscal year or other period in which marketing allotments are in effect.

Past marketings means, for purposes of determining State cane sugar allotments, the average of the two highest years of sugar production during the 1985 through 1989 crop years; and means for all other purposes, the average of production of sugar during the 1985 through 1989 crop years, excluding the highest and lowest years.

Per-acre yield goal means the yield level for a State established at not less than the average per-acre yield in the State for the preceding 5 crop years or such other higher yield established by CCC that will ensure an adequate net return per pound to producers in the State.

Processing capacity means, for purposes of determining sugar allotments or allocations, the highest crop-year production of sugar, raw value, as determined by CCC, achieved in the sector or State or by the processor, as appropriate, during the 5-year period prior to the fiscal year for which allotments have been established.

Proportionate share means the total acreage from which a producer may harvest sugarcane for sugar or seed during any fiscal year or other period in which marketing allotments are in effect.

Raw sugar means any sugar, whether or not principally of crystalline structure, 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 or equivalent test performed in accordance with procedures recognized by the International Commission for Uniform Methods of Sugar Analysis. 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 = actual weight $\times$ $\{[(\text{actual degree of polarization} - 92) \times 0.0175] + 0.93\}$. For example, for cane sugar testing 92 sugar degrees by the polariscope, derive raw value by multiplying the actual number of pounds of such sugar by 0.93; for cane sugar testing more than 92 sugar degrees by the polariscope, derive raw value by multiplying the actual number of pounds of such sugar by the figure obtained by adding 0.93 to the result of multiplying 0.0175 by the number of degrees and fractions of a degree of polarization above 92 degrees. 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.

Reasonable carryover stocks means desirable inventories of sugar owned by sugar beet processors, sugarcane processors, cane sugar refiners, and CCC and on hand in the United States at the end of the fiscal year, as determined by CCC.

Refined crystalline sugar means centrifugal, crystalline sugar (including "high-polarity" sugar from raw cane mills, and "soft" or "brown" sugars) which is not to be further refined or improved in quality.

State means any of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

State cane sugar allotment means that portion of the cane sugar allotment assigned to Florida, Hawaii, Louisiana, Texas, or Puerto Rico.

Sucrose means a disaccharide having the chemical formula $C_{12}H_{22}O_{11}$.

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

Sugar beet processor means a person who commercially produces sugar, directly or indirectly, from domestically-produced sugar beets (including sugar produced from sugar beet molasses).

Sugar products means products for human consumption, other than sugar, which contain 50 percent or more of sucrose, on a dry weight basis, and which are marketed by a sugar beet processor or sugarcane processor.

In determining sugar subject to marketing allocations, only the sugar

content of such products will be counted against the allocation.

Sugar syrup means a direct-consumption sugar with a sucrose or sucrose-equivalent invert sugar content of less than 94 percent of the total soluble solids.

Sugarcane processor means a person who commercially processes domestically-produced sugarcane or sugarcane molasses to produce sugar.

Ton means a short ton or 2,000 pounds.

United States means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

USDA means the United States Department of Agriculture.

U.S. market value means, for sugarcane, the daily New York No. 14 contract price for raw sugar; for sugar beets, the Midwest refined beet sugar price published in Milling and Baking News; and for crystalline fructose, 1.5 times the Midwest refined beet sugar price.

§§ 1435.503-1435.506 [Reserved]

§ 1435.507 Annual estimates and quarterly re-estimates.

(a) Before the beginning of each of the fiscal years 1993 through 1996 CCC will estimate, and before the beginning of each quarter of such fiscal years CCC will re-estimate, for such fiscal year:

- (1) The quantity of sugar that will be consumed in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and re-exported in refined form or in sugar-containing products);
- (2) The quantity of sugar that will provide for reasonable carryover stocks;
- (3) The quantity of sugar that will be available for consumption from carry-in stocks;
- (4) The quantity of sugar that will be available for consumption from domestically produced sugarcane and sugar beets; and
- (5) The quantity of sugar that will be imported for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and re-exported in refined form or in sugar-containing products), which will be calculated as the difference between:

- (i) The sum of the quantity of estimated consumption and reasonable carryover stocks; and
- (ii) The quantity of sugar estimated to be available from domestically grown sugarcane and sugar beets and from carry-in stocks.

(b) Calculation of all allotments, allocations, estimates, and re-estimates in this subpart will be made by using

available USDA statistics and estimates of production, consumption, and stocks, taking into account, where appropriate, the data supplied in reports submitted pursuant to the reporting requirements set forth in §§ 1435.400 and 1435.402 of this part.

§ 1435.508 Establishment and suspension of allotments.

(a) If it is estimated under § 1435.507(a)(5) that imports of sugar for the fiscal year will be less than 1.25 million short tons, raw value, allotments for the marketing of sugar and sugar products will be established for that fiscal year at a level that CCC estimates will result in imports of sugar of not less than 1.25 million short tons, raw value.

(b) An allotment for crystalline fructose will be imposed whenever allotments for the marketing of sugar are established.

(c) Marketing allotments for sugar and for crystalline fructose will be suspended, as CCC determines appropriate, to reflect changes in estimated consumption, stocks, production, or imports based on quarterly re-estimates under section 1435.507(a).

(d) Each determination under this section to establish or suspend marketing allotments will be promptly published in the *Federal Register* and will be accompanied by a statement of the reasons for the determination.

§ 1435.509 Overall allotment quantity.

The overall allotment quantity for the fiscal year will be calculated by deducting from the sum of estimated sugar consumption and reasonable carryover stocks:

- (a) 1,250,000 short tons, raw value; and
- (b) Carry-in stocks.

§ 1435.510 Adjustment of overall allotment quantity.

(a) The overall allotment quantity will be adjusted:

- (1) As CCC determines appropriate, to reflect changes in estimated consumption, stocks, production, or imports based on quarterly re-estimates under § 1435.507(b); and
- (2) To the maximum extent practicable, to avoid the forfeiture of sugar to the CCC.

(b) Each determination to adjust the overall allotment quantity under this section will be promptly published in the *Federal Register* and will be accompanied by a statement of the reasons for the determination.

(c) The allotment for beet sugar, the allotment for cane sugar, the State cane sugar allotments, and the fiscal year

allocations of each sugar beet processor and each sugarcane processor will be increased or reduced, as appropriate, to reflect an adjustment of the overall allotment quantity.

(d) If the overall allotment quantity is reduced under paragraph (a)(1) of this section and the sum of the quantity of sugar and sugar products marketed and sugar pledged as collateral for a price support loan by any individual processor, at the time of the reduction, exceeds the processor's reduced allocation, the quantity of excess sugar or sugar products marketed or pledged as collateral will be deducted from the processor's next allocation of an allotment, if any. The exceptions provided for in § 1435.513 shall be applicable in determining whether a processor has exceeded a reduced allocation.

(e) Whenever a processor's allocation is required to be reduced as provided in paragraph (d) of this section, the quantity by which such allocation is reduced will be reassigned using the same procedures as are provided for the reassignment of deficits in § 1435.514.

§ 1435.511 Beet sugar and cane sugar allotments.

(a) An allotment for beet sugar and an allotment for cane sugar will be established for each fiscal year that marketing allotments are in effect.

(b) The beet sugar allotment and cane sugar allotment will be equal to the product of multiplying the overall allotment quantity for the fiscal year by the percentage factor established for beet sugar and the percentage factor established for cane sugar, respectively.

(c) Percentage factors will be established on the basis of:

- (1) Past marketings of sugar based on the average marketings of beet sugar and cane sugar from the 1985 through 1989 crops, dropping the highest and lowest years;
- (2) Processing capacity in the beet and cane sectors; and
- (3) The beet and cane sectors' respective ability to market the allotments assigned to each.

(d) Each of the three criteria used to determine the percentage factors specified in paragraph (c) of this section will be weighted equally, or as determined appropriate by CCC for each year that allotments are in effect.

(e) A sugar beet processor who has been allocated a share of the beet sugar allotment may use only beet sugar to fill such allocation, and a sugarcane processor who has been allocated a share of the cane sugar allotment may use only cane sugar to fill such allocation.

§ 1435.512 State cane sugar allotments.

(a) The allotment for cane sugar will be allotted among Florida, Hawaii, Louisiana, Texas and Puerto Rico, based on:

(1) The average of the two highest years of marketings of cane sugar from each State during the 1985 through 1989 crop years;

(2) Processing capacity in each State; and

(3) The ability of processors in each State to market the sugar covered under the allotment assigned to the State.

(b) Each of the three criteria specified in paragraph (a) of this section will be weighted equally, or as determined appropriate by CCC for each year that an allotment is in effect.

(c) Except when deficits are re-assigned as provided in § 1435.514, a processor may fill an allocation of a cane sugar allotment only with sugar processed from sugarcane grown in the State for which the allotment was established.

§ 1435.513 Allocation of marketing allotments to processors.

(a) Whenever marketing allotments are established for a fiscal year under this subpart, sugar beet processors and sugarcane processors will receive marketing allocations for that fiscal year.

(b) Allocations to sugar beet processors will be based on each processor's:

(1) Average of past marketings of beet sugar during the crop years 1985 through 1989, excluding the highest and lowest years,

(2) Processing capacity, and

(3) Ability to market sugar.

(c) Allocation to sugarcane processors of a State cane sugar allotment will be based on each processor's:

(1) Average of past marketings of cane sugar during the crop years 1985 through 1989, excluding the highest and lowest years,

(2) Processing capacity, and

(3) Ability to market sugar.

(d) Each of the three criteria specified in paragraphs (b) and (c) of this section will be weighted equally, or as determined appropriate by CCC for each year that marketing allotments are in effect.

(e) An informal hearing will be held, if requested by interested parties within 5 workdays following the announcement of proposed allocations, to afford all interested persons the opportunity to comment on the proposed allocations. After consideration of comments obtained at the hearing, a final determination on allocations will be announced.

(f) During any fiscal year in which marketing allotments are in effect and allocated to processors, the total of the following shall not exceed the quantity of the allocation of the allotment made to the processor:

(1) The quantity of sugar and sugar products marketed by a processor, and

(2) The quantity of sugar pledged as collateral by the processor for a CCC price-support loan.

(g) Sugar pledged in a fiscal year as collateral for a CCC price-support loan and counted against a processor's allocation of an allotment shall not be counted a second time against the processor's allocation when the sugar is marketed in that fiscal year after having been redeemed.

(h) Paragraph (f) of this section shall not apply to any sale of sugar by a processor to another processor that is made to enable the purchasing processor to fulfill the purchasing processor's allocation of an allotment. Such sales shall be reported to CCC within 2 days of the date of any such sale.

§ 1435.514 Reassignment of deficits.

(a) From time to time in each fiscal year that marketing allotments are in effect, CCC will determine whether processors of sugar beets or sugarcane will be able to market sugar covered by the portions of the allotments allocated to them. These determinations will be made giving due consideration to current inventories of sugar, estimated production of sugar, expected marketings, and any other pertinent factors. Generally, these determinations will be made in July but may be made at any other time in the fiscal year.

(b) If it is estimated that a sugarcane processor will be unable to market the full amount of the processor's allocation for the fiscal year in which an allotment is in effect, this deficit will:

(1) First, be reassigned proportionately to the allocations of other sugarcane processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to such other processor and taking into account the interests of producers served by the processors;

(2) If the deficit cannot be eliminated after reassignment within the same State, the deficit will be reassigned to the other cane sugar States based on the ability of processors in such States to market the deficit to be reassigned to such States, with the reassigned quantity to each State being allocated among its processors in proportion to the initial allocations of the processors; and

(3) If any portion of the deficit remains after paragraphs (b)(1) and (b)(2) of this section have been implemented, it will be assigned to imports.

(c) If a sugar beet processor is estimated to be unable to market the full amount of the processor's allocation for the fiscal year in which an allotment is in effect, this deficit will:

(1) First, be reassigned proportionately to the allocations of other sugar beet processors depending on the capacity of the other processors to fill the portion of the deficit to be assigned to them and taking into account the interests of producers served by the processors; and

(2) If any portion of the deficit remains after paragraph (c)(1) of this section has been implemented, it will be reassigned to imports.

(d) The fiscal year allocation of each sugar beet processor or sugarcane processor who receives an additional reassigned deficit amount will be increased to reflect the reassignment for that year.

§§ 1435.515-1435.519 [Reserved]**§ 1435.520 Sharing processors' allocations with producers.**

(a) Every sugar beet processor and sugarcane processor shall share its allocation with producers served by the processor in a fair and equitable manner that adequately reflects such producers' production histories.

(b) Whenever allocations of a marketing allotment are established or adjusted, every sugar beet processor and sugarcane processor must provide to CCC such adequate assurances as are required to ensure that the processor's allocation will be shared among producers served by the processor in a fair and adequate manner which reflects each producer's production history.

(c) Any producer or processor can request arbitration of a dispute with respect to the sharing of the processor's allocation among the producers. Arbitration will be available on behalf of CCC at the State ASCS office for the State in which the processor is located. Subsequent review of the arbitration decision is available at the discretion of the Executive Vice President, CCC, or a designee. Any arbitration will be subject to appeal to the Office of the Administrative Law Judge, USDA.

§ 1435.521 Proportionate shares for producers of sugarcane.

(a) Proportionate shares, and the provisions of this section and §§ 1435.522 through 1435.526, shall be applicable only with respect to

sugarcane farms in the State of Louisiana.

(b) In any fiscal year in which marketing allotments are established at the beginning of such fiscal year, CCC will determine whether the production of sugar in the State of Louisiana, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the State cane sugar allotment and provide a normal carryover inventory. If the determination is made that the quantity of sugar produced in the State, plus a normal carryover inventory, will exceed the State's allotment for the fiscal year, CCC will establish for each sugarcane-producing farm a proportionate share that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the fiscal year that the allotment is in effect.

(c) For purposes of determining proportionate shares for any crop of sugar, CCC will:

(1) Establish the State's per-acre yield goal at a level not less than the average per-acre yield in the State for the preceding five years;

(2) Adjust the per-acre yield goal by the average recovery rate of sugar produced by sugarcane processors in the State;

(3) Convert the State cane sugar allotment, as determined in accordance with § 1435.513 into a State acreage allotment by dividing the State cane sugar allotment by the adjusted per-acre yield goal;

(4) Establish a uniform reduction percentage for the crop by dividing the State acreage allotment by the sum of all adjusted acreage bases in the State as determined under § 1435.522; and

(5) Apply the uniform reduction percentage to the acreage base established for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

§ 1435.522 Establishment of acreage bases for purposes of proportionate shares.

(a) CCC will establish a sugarcane crop acreage base for each farm subject to proportionate shares as the simple average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the five crop years preceding the fiscal year for which proportionate shares are being established. Acreage considered planted shall be determined in accordance with § 1435.524.

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

(1) Not take into consideration the acreage which producers are prevented from planting.

(2) Will take into consideration:

(i) Acreage planted to sugarcane that fails, and

(ii) For farms for which there is a Conservation Reserve Program contract in effect, an acreage equal to the amount by which any crop acreage base is reduced in accordance with § 1413.97 due to participation in the Conservation Reserve Program in accordance with part 704 of this title.

(c) In establishing crop acreage bases, CCC will allow producers who have not previously reported their sugarcane acreage to do so by a date determined and announced by CCC. Late-filed acreage reports will be accepted as determined by DASCO.

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

(e) The regulations at 7 CFR parts 718 and 719 of this title shall be applicable to this subpart except the reconstitution of farms with a sugar crop acreage base shall not be allowed across State lines.

§ 1435.523 Permanent transfer of acreage base histories for purposes of proportionate shares.

(a) A sugarcane producer on a farm may transfer all or a portion of the acreage base history of land owned, operated, or controlled by the producer to any other farm in the State that is owned, operated, or controlled by that producer in accordance with instructions issued by DASCO. The transfer will reduce permanently the transferring farm's sugarcane acreage base history and increase the receiving farm's crop acreage base.

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

(c) Producers may transfer sugarcane acreage base histories in accordance with this section by the date established annually by the State ASC Committee.

§ 1435.524 Temporary transfers of proportionate shares due to disasters.

(a) If for reasons beyond the control of a producer on a farm, such producer is unable to harvest an acreage of sugarcane with respect to all or a portion of the proportionate share established for the farm, the Secretary may preserve, for a period of not more than 3 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 one 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 3 years; and

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

(c) Producers who transfer a proportionate share in accordance with paragraph (b) of this section will be required to:

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

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

(d) All transfers made in accordance with this section must be completed by the date established by the State ASC Committee.

§ 1435.525 Adjustments to proportionate shares.

Whenever CCC determines that, because of a natural disaster or other condition beyond the control of producers adversely affecting a crop of sugarcane, the amount of sugarcane produced by producers subject to proportionate shares will not be sufficient to enable processors in the State 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.

§ 1435.526 Acreage reports for purposes of proportionate shares.

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

(b) The reports required under paragraph (a) of this section shall be on forms prescribed by DASCO and shall be filed annually with the county ASC committee by the applicable final reporting date established by DASCO. Such report shall be filed by the farm operator or by the farm owner.

(c) Acreage reports will be used to determine compliance with proportionate 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 which may be used to make a determination with respect to:

(1) The existence of the crop;

(2) The use made of the crop;

(3) The lack of crop; or

(4) A disaster condition affecting the crop.

(e) The farm operator shall pay the cost of a farm visit by an authorized

ASCS employee unless the county ASCS committee has determined that failure to report in a timely manner was beyond the producer's control.

(f) The farm operator may revise a report of acreage to change the acreage reported. Revised reports shall be filed in accordance with instructions issued by DASCO and shall be accepted at any time if:

(1) Evidence exists for inspection and determination of:

- (i) The existence of the crop;
- (ii) The use made of the crop;
- (iii) The lack of crop; and
- (iv) A disaster condition affecting the crop; and

(2) The farm has not already been inspected and the acreage already determined or harvesting of sugarcane already begun.

(g) The provisions of 7 CFR part 718 will apply for field inspections, tolerance, and variance. Assessments for inaccurate acreage reporting will be applied in accordance with § 1435.528.

§ 1435.527 Crystalline fructose allotment.

(a) An allotment for crystalline fructose will be imposed, whenever allotments are established for cane and beet sugar, at a level of 159,757 tons of crystalline fructose, during the fiscal year in which marketing allotments are in effect.

(b) An allotment will be allocated among manufacturers of crystalline fructose based on each manufacturer's highest year of production of crystalline fructose during the preceding five fiscal years.

(c) At any time a crystalline fructose allotment is in effect, no manufacturer of crystalline fructose may market crystalline fructose in excess of the manufacturer's allotment.

§ 1435.528 Penalties and assessments.

(a) In accordance with section 359b(d)(3) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1359bb(d)(3)), any sugar beet processor or sugarcane processor who markets sugar or sugar products or pledges sugar as collateral for a price-support loan in excess of the processor's allocation in violation of § 1435.514 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) In accordance with section 359b(d)(3) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1359bb(d)(3)), any manufacturer of crystalline fructose who markets crystalline fructose in excess of the manufacturer's marketing allotment

shall pay to CCC 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 crystalline fructose involved in the violation.

(c) In accordance with section 359f(b)(5) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1359bb(d)(3)), any producer of sugarcane whose farm has been assigned 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 has harvested 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 the marketing allocation of such processor; or

(2) Diverted to a use other than sugar or seed if:

(i) The sugarcane producer requests and pays for a field inspection by CCC, and

(ii) A representative of CCC verifies the disposition of the excess harvest.

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

(e) Any person who files a false or inaccurate acreage report which exceeds tolerance will be subject to an assessment calculated by multiplying the difference between the reported and determined acreage of sugarcane, times the State yield-goal, times 25 percent of the National sugar price-support loan rate, but not more than \$5000. Whenever the failure of a producer to comply fully with the terms and conditions applicable to proportionate shares would result in an assessment, DASCO may authorize the waiver or reduction of the assessment in such amounts as determined to be equitable in relation to 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.

(f) Any person who knowingly violates any provision of this subpart is subject to the assessment of a civil

penalty by CCC of not more than \$5,000 for each violation.

§ 1435.529 Appeals.

(a) An appeal may be made to the Office of the Administrative Law Judge, USDA, by:

(1) Any sugar beet processor, sugarcane processor, or any other person adversely affected by a decision under paragraphs (a) through (e) of § 1435.513 who disagrees with such decision;

(2) Any producer or any other person adversely affected by a decision under §§ 1435.521, 1435.522, 1435.525 or 1435.528(c) who disagrees with a determination with respect to the establishment or adjustment of proportionate shares or acreage bases or excess acreage harvested; or

(3) Any processor or producer adversely affected by an arbitration decision pursuant to § 1435.520(c) or its review by the Executive Vice President, CCC.

(b) A manufacturer of crystalline fructose who has been determined to have marketed crystalline fructose in excess of the applicable allotment may request review of such determination pursuant to the ASCS appeal procedure set forth at part 780 of this title by filing an appeal with the National Appeals Division.

(c) A sugar beet processor or sugarcane processor who has been determined to have marketed sugar in excess of the assigned allocation may request review of such determination pursuant to the ASCS appeal procedures set forth at part 780 of this title by filing an appeal with the National Appeals Division.

(d) All appeals must be filed within 15 calendar days after the relevant determination is issued. The appeal must be in writing.

Signed the 29th day of June, 1993 in Washington, DC.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93-15817 Filed 6-30-93; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-61-AD; Amdt. 39-8622; 93-13-09]

Airworthiness Directives: Cessna T210 Series Airplanes Modified by Supplemental Type Certificate SA2231CE or Supplemental Type Certificate SA3203NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Cessna T210 series airplanes equipped with a turbocharged Continental TSIO-520R engine and intercooler installation in accordance with Supplemental Type Certificate (STC) SA2231CE or STC SA3203NM. This action requires inspecting the air induction hose to determine whether a Gates hose (part number 20987 or 21370) is installed, and replacing any such hose with The Aircraftman hose (part number MW1118), which is designed to handle the high turbocharger exit air temperature. One of the affected airplanes lost engine power at high altitude because hot air from the turbocharger caused the Gates air induction hose to split. The actions specified by this AD are intended to prevent air induction hose failure, which could result in loss of engine power.

EFFECTIVE DATE: August 13, 1993.

ADDRESSES: Information that relates to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Parts needed to accomplish this AD may be obtained from The Aircraftman, 7000 Merrill Avenue, Hangar/Box P100, Chino, California 91710; Telephone (909) 393-0884.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Bumann, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3229 E. Spring Street, Long Beach, California 90806; Telephone (310) 988-5265; Facsimile (310) 988-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to Cessna T210 series airplanes equipped with a turbocharged Continental TSIO-520R engine and intercooler installation in accordance

with STC SA2231CE or STC SA3203NM was published in the *Federal Register* on February 8, 1993 (58 FR 7494). The action proposed to require inspecting the air induction hose to determine whether a Gates hose (part number 20987 or 21370) is installed, and replacing any such hose with The Aircraftman hose (part number MW1118), which is designed to handle the high turbocharger exit air temperature.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 390 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Parts cost approximately \$135 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$74,100. These figures take into account that none of the affected airplanes have accomplished the required actions.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new AD:

93-13-09 Cessna Aircraft Company:
Amendment 39-8622; Docket No. 92-CE-61-AD.

Applicability: The following model airplanes (all serial numbers) equipped with a Continental TSIO-520R engine and intercooler installation in accordance with the applicable supplemental type certificate (STC), certificated in any category:

Model	Modified by STC
T210K	SA2231CE
T210L	SA2231CE
T210M	SA3203NM
T210N	SA3203NM

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent air induction hose failure, which could result in loss of engine power, accomplish the following:

(a) Visually inspect between the turbocharger and intercooler to determine whether a Gates air induction hose, part number (P/N) 20987 or P/N 21370, is installed. If a Gates hose is installed, prior to further flight, accomplish the following:

(1) Loosen the two AN737-TW clamps and remove the Gates hose.

(2) Install The Aircraftman hose, P/N MW1118, and tighten the two AN737-TW clamps.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office, FAA, 3229 E. Spring Street, Long Beach, California 90806. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to

the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) All persons affected by this directive may examine any information referred to herein upon request to the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Parts needed as a result of this action may be obtained from The Aircraftsman, 7000 Merrill Avenue, Hangar/Box P100, Chino, California 91710.

(e) This amendment (39-8622) becomes effective on August 13, 1993.

Issued in Kansas City, Missouri, on June 29, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-15811 Filed 7-2-93; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 92-CE-51-AD; Amendment 39-8621; AD 93-13-08]

Airworthiness Directives: Aerostar Aircraft Corporation PA-60-600 (Aerostar 600) and PA-60-700 (Aerostar 700) Series (formerly Piper) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 92-11-08, which currently requires replacing or upgrading the main landing gear torque links on certain Aerostar Aircraft Corporation (Aerostar) PA-60-600 and PA-60-700 series airplanes. The Federal Aviation Administration (FAA) has received several reports of fatigue failures of the main landing gear torque links that were installed or upgraded in accordance with AD 92-11-08. This action requires replacing these main landing gear torque links with parts of improved design; or repetitively inspecting the existing torque links, and replacing any cracked torque links. The actions specified by this AD are intended to prevent loss of directional control of the airplane during ground operation caused by torque link failure.

DATES: Effective August 20, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 20, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from

the Aerostar Aircraft Corporation, Customer Service Department, South 3608 Davison Boulevard, Spokane, Washington 99204; Telephone (509) 455-8872. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. **FOR FURTHER INFORMATION CONTACT:** Mr. William A. Swope, Aerospace Engineer, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; Telephone (206) 227-2589.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Aerostar PA-60-600 (Aerostar 600) and PA-60-700 (Aerostar 700) series airplanes was published in the Federal Register on December 14, 1992 (57 FR 58998). The action proposed to require replacing the existing main landing gear torque links with improved design torque links, part number (P/N) 400126-501 and 400126-502 (left main landing gear) and P/N 400126-503 and 400126-504 (right main landing gear). The proposed action would be accomplished in accordance with the Instructions section of Aerostar Service Bulletin No. 746C, dated September 15, 1992.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters suggest that, as an alternative method of compliance, the FAA give the affected airplane operators the option of repetitively inspecting the main landing gear torque links every 100 hours time-in-service (TIS) or at every annual inspection, whichever occurs first. The FAA concurs that an equivalent level of safety could be obtained by allowing repetitive inspections every 100 hours TIS, and has incorporated this option into the proposed AD. Since the condition is caused by airplane operation, the FAA has not included "at the next annual inspection" as a compliance time.

Both of these commenters also suggest that the FAA remind operators of the importance of proper strut inflation. One of these commenters references reports that Aerostar operators have a tendency to over-inflate the main landing gear struts to maintain a level deck angle while the airplane is on the ground, which redistributes forces to the torque link mechanism that are inconsistent with the design. One of

these commenters also states that improper use of the hydraulic nose gear steering mechanism could lead to overstressed torque links. The FAA concurs with these statements and has added a NOTE in the proposed AD cautioning against these actions. The FAA has also asked the manufacturer to issue a service letter to address this issue.

Another commenter raises questions as to why another AD requiring mandatory torque link replacement is proposed. His concerns are:

- Why are the affected operators expected to pay for the flight testing of all new and improved versions of the torque link kits?
- What is the benefit outweighing the additional cost for replacement?; or How long will this version of the torque links last before another is issued? and
- What assurance is there that this replacement is reliable and that the prior design flaws have indeed been eliminated?

The FAA took all of these concerns into consideration before developing the proposed AD. The new torque links were developed through careful and thorough loads analysis, materials selection, static testing, and field testing. The FAA has carefully analyzed the failure modes of the previous torque link designs, and the FAA has determined that this torque link design is a permanent replacement, and that the failure modes of the previous design have been eliminated. The FAA has determined that either initial replacement of the torque links, or repetitive inspections of the existing torque links and replacement of any cracked torque links with the improved parts, achieve, as far as the main landing gear torque links are concerned, the safety objective of returning the airplane to its original certification level of safety.

No comments were received on the FAA's determination of the cost to the public, but if the operator chooses to repetitively inspect instead of replacing and no cracks are found, then the initial cost will be substantially lower. However, the long-term cost of repetitive inspections will eventually exceed the one-time cost of replacing the torque links.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for adding the option of repetitively inspecting the torque links, and replacing any cracked torque links, and minor editorial corrections. The FAA has determined that the addition and minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 800 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per airplane to accomplish the torque link replacement, and that the average labor rate is approximately \$55 an hour. Parts cost approximately \$882 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$793,600. The initial cost would be much lower if the operator chose the repetitive inspection option and found no torque link cracks.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 92-11-08, Amendment 39-8258 (57 FR 20742, May 15, 1992),

and adding the following new airworthiness directive:

93-13-08 Aerostar Aircraft Corporation:
Amendment 39-8621; Docket No. 92-CE-51-AD. Supersedes AD 92-11-08, Amendment 39-8258.

Applicability: The following model and serial number airplanes, certificated in any category:

Models	Serial numbers
PA-60-600 Aerostar 600.	60-0001-003 through 60-0933-8161262.
PA-60-601 Aerostar 601.	61-0001-004 through 61-0880-8162157.
PA-60-601P Aerostar 601P.	61P-0157-001 through 61P-0860-8163455.
PA-60-602P Aerostar 602P.	62P-0750-8165001 through 60-8365021.
PA-60-700P Aerostar 700P.	60-8223001 through 60-8423025.

Note 1: The manufacturing and ownership rights of the affected model airplanes were previously owned by the Piper Aircraft Corporation, but these rights were recently transferred to the Aerostar Aircraft Corporation.

Compliance: Required as indicated, unless already accomplished.

To prevent loss of directional control of the airplane during ground operation caused by torque link failure, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, accomplish either (1) or (2) below:

(1) Replace the existing main landing gear torque links with improved design torque links, part number (P/N) 400126-501 and 400126-502 (left main landing gear) and P/N 400126-503 and 400126-504 (right main landing gear), in accordance with the Instructions section of Aerostar Service Bulletin (SB) No. 746C, dated September 15, 1992.

Note 2: Aerostar SB No. 746C, dated September 15, 1992, references the availability of Main Landing Gear Torque Link Replacement Kit No. 785-155 revision G. This kit contains the improved torque links and all hardware necessary to install these links. This kit may be obtained from the manufacturer at the address specified in paragraph (d) of this AD.

(2) Dye penetrant inspect (using FAA-approved methods) the main landing gear torque links for cracks.

(i) If cracks are found, prior to further flight, replace the cracked torque links with improved designed torque links part number (P/N) 400126-501 and 400126-502 (left main landing gear) and P/N 400126-503 and 400126-504 (right main landing gear), in accordance with the Instructions section of Aerostar SB No. 746C, dated September 15, 1992.

(ii) If no cracks are found, reinspect at intervals not to exceed 100 hours TIS.

(iii) The repetitive inspection requirement is no longer required when both the left and right main landing gear torque links are

replaced with improved design torque links, part number (P/N) 400126-501 and 400126-502 (left main landing gear) and P/N 400126-503 and 400126-504 (right main landing gear), in accordance with the Instructions section of Aerostar SB No. 746C, dated September 15, 1992. This installation may be accomplished at any time regardless of whether cracks are found during the inspection.

Note 3: Operators should ensure that proper strut inflation is maintained as improper strut inflation could put extreme impact upon the torque links. In addition, improper use of the hydraulic nose gear steering mechanism at high speeds could also lead to overstressed torque links.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4058. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle Aircraft Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle Aircraft Certification Office.

(d) The replacement required by this AD shall be done in accordance with Aerostar Service Bulletin No. 746C, dated September 15, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Aerostar Aircraft Corporation, Customer Service Department, South 3608 Davison Boulevard, Spokane, Washington 99204. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39-8621) supersedes AD 92-11-08, Amendment 39-8258.

(f) This amendment (39-8621) becomes effective on August 20, 1993.

Issued in Kansas City, Missouri, on June 29, 1993.

Barry D. Clements,
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-15812 Filed 7-2-93; 8:45 am.]

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