

Mr. Joel Williams
Powell, Goldstein, Frazer, & Murphy LLP
191 Peachtree Street, NE, 16th Floor
Atlanta, Georgia 30303

Dear Mr. Williams:

This is in response to your March 10, 2003, request for reconsideration of the Commodity Credit Corporation's (CCC) decision to deny Cargill, Inc. (Cargill) an allocation of the beet sugar marketing allotment. I have reconsidered the decision and, unfortunately, cannot find justification to overturn it.

Cargill's Dayton factory functioned as a cane refiner during the beet sugar production history period, the 1998 through 2000 crop years, and thus was not a sugar beet processor at any time during this period. Therefore, Cargill does not qualify as a sugar beet processor eligible for a 1.25 percent increase of the aggregate beet sugar production history by having opened a sugar beet processing factory during the 1998 through 2000 crop years.

Granting Cargill a "new entrant" allocation under the proposed arrangement with the Southern Minnesota Beet Sugar Cooperative (Southern Minnesota) is not consistent with the beet sugar allocation formula under the sugar marketing allotment program. Cargill is proposing to buy beets from Southern Minnesota growers and then pay Southern Minnesota to process the beets into thick juice which is considered sugar under Department of Agriculture's (USDA) sugar programs. However, this sugar would be marketed under Cargill's allocation, which would have to be taken proportionately from the allocations of existing sugar beet processors. In effect, sugar from Southern Minnesota beets processed in Southern Minnesota's factory would be marketed from allocation derived principally from non-Southern Minnesota processing companies. Southern Minnesota's share of the sugar marketing allocation is governed by the detailed beet sugar allocation formula in section 359d(b)(2) of the Agricultural Adjustment Act of 1938, as amended. The new entrant provision cannot be invoked to avoid the carefully crafted beet sugar allocation formula for existing sugar beet processors.

The Farm Security and Rural Investment Act of 2002 does make provision for new entrants to the industry. In fact, one application was approved for a cane processor investing in a new plant and production.

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We regret that we cannot be more positive. You may appeal my determination within 20 days from the date of this letter with the Hearing Clerk, Office of the Administrative Law Judges, USDA, Room 1081-South Building, 1400 Independence Avenue, SW, Washington, DC, 20250-9200.

Sincerely,

James R. Little
Executive Vice President

cc: EPAS/3741-S OBPI./3702A

FSA/EPAS/Dcolacicco/lrf/ext. 690-0734 7-17-03 EPAS-031