occurred 56 days later. The timing of the second reassignment was partially impacted by delays in some processors' monthly reporting. Because the most recent data available are crucial for determining reassignments, and CCC cannot always be assured of timely receipt of processor data, CCC can only ensure that reassignments will be made as soon and as frequently as practicable.

Thus, § 1435.514 is revised accordingly.

Two commenters called for allowances for new processors. CCC once again 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.

Thus, CCC rejects the recommendation.

One commenter recommended that CCC be required to publish sugar marketing allotments at least 2 months before the beginning of the fiscal year, and if readjustments are needed, they should be announced in advance of each quarter. However, the statute requires that, before the beginning of each quarter, the CCC establish, adjust, or suspend marketing allotments depending on its assessment of appropriate factors. Therefore, CCC cannot impose allotments at the beginning of each fiscal year to be subsequently adjusted or suspended as needed. Furthermore, CCC requires flexibility in the time for announcing allotments and readjustments, balancing the need for up-to-date information and analysis with the need of companies for as much advance notice as possible.

Therefore, CCC rejects the recommendation.

One commenter recommended that the allocation of a facility closing or curtailing operations be transferred along with each grower's production history to other processors in the same State, and if that State cannot fulfill the allocation, to beet processors outside the State.

CCC reiterates that under the provisions of the 1938 Act, allocations are not made on a facility basis, but rather on a processor basis. 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.

Thus, CCC rejects the recommendation.

4. Three commenters questioned CCC's definition of sugar in its various forms. Two commenters wanted liquid fructose derived from sucrose to be excluded from the definition of sugar. CCC continues to maintain that, based on well established definitions of sugar and sucrose, fructose from sucrose is sugar, rather than a sugar product. 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 liquid fructose derived from sucrose to be exempt from marketing allotments would be a circumvention of the purposes of the statute.

Thus, the definition of sugar as provided in the interim rule is adopted without change.

One commenter alleged inconsistency regarding to CCC's definitions for molasses, cane syrup, liquid sugar, and edible molasses, and referred to the need to conform with U.S. Customs definitions. CCC in the interim rule adopted the Customs definition of liquid sugar but also indicated the need to distinguish among liquid sugar, cane syrup, and sugar syrup. Regarding molasses, the Customs definition refers only to high-test or invert molasses which is not molasses but actually a sugar. CCC has found no universally accepted industry definition of molasses in terms of precise content of sucrose or sucrose-equivalent of invert sugars. Edible molasses is considered a sugar, with a sucrose-solids content of approximately over 60 percent. Sugar syrup has a higher sucrose content but its precise demarcation from edible molasses is not given. Both sugars are defined by CCC, for program purposes, in terms of sucrose-solids content. However, CCC does agree that the definition of sugar syrup, as contained in the interim rule, may be further clarified by stating that it is not principally of crystalline structure.

Thus, § 1435.502 is revised accordingly.

5. Two commenters urged USDA to reconsider imposing penalties on processors who had already exceeded their allocation prior to the announcement of allotments/ allocations. The Omnibus Reconciliation Act of 1993 has amended the 1938 Act to exempt processors from penalties unless they "knowingly" marketed sugar in excess of allocation.

Thus, § 1435.528 is revised accordingly.

6. There were four comments concerning proportionate shares to producers. One commenter wanted clarification of the circumstances under which more than the average per acre yield for the preceding five years would be utilized in determining the State's per acre yield goal. The interim rule states in § 1435.521 that the State's peracre yield goal will be at a level not less than the State average per-acre yield for the preceding 5 years, adjusted by the State average recovery rate. However, section 359f(b)(3)(A) of the 1938 Act actually states that the State's average per-acre yield goal shall be at a level (not less than the State average per-acre yield for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers, taking into consideration any available production research data that the Secretary deems relevant. Section 359f(b)(3)(B) of the 1938 Act also states that the Secretary shall adjust the per acre yield goal by the average recovery rate.

Thus, §1435.521 is revised

accordingly.

Another commenter wanted CCC to require Louisiana farmers to complete acreage reporting by July 1 and inform producers by August 15 of the acreage that may be planted to meet their proportionate shares for the following crop year. However, CCC is not able to determine whether allotments will be implemented that far in advance.

Thus, CCC rejects this recommendation.

The third comment concerned a recommendation that sugarcane acreage certified with ASCS by July be immediately figured into a farm base history for marketing allotment calculations for the following fiscal year when the crop is harvested. However, the 1938 Act specifically states that the acreage base for any farm is equal to the average of the acreage planted or considered planted for harvest for sugar or seed in each of the 5 crop years preceding the fiscal years that proportionate shares will be in effect. The acreage certified in July is considered the current crop year for the fiscal year that starts on the following October 1. Thus, the 1938 Act does not permit CCC to use the July data in determining proportionate shares.

The last comment concerned a request that any reduction in acreage eligibility as a result of proportionate shares not result in any reductions in future farm base levels. Under current policy, the acreage certified in July is used for calculating a farm's acreage base,