

USDA's Interpretation of "Fair and Equitable" - October 17, 2003

This document outlines the meaning of "fair and equitable" in Louisiana with regard to the requirement "that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories" (section 359f(a)(1) of the Agricultural Adjustment Act of 1938, as amended (the Act)).

Basically, the law requires USDA to determine that processors treat producers in a fair manner that reflects producers' production history. Since base acreage is the producer's production history, the processor should pay production from base acreage before the processor pays for production from nonbase acreage.

"Fair and equitable" is tied to the producer's proportionate share acreage which depends on base acreage. The proportionate share is a farm's harvested acreage quota permitted under sugar marketing allotments and only affects Louisiana. Cane production from proportionate share acreage will be paid by the processor before sugarcane from other acreage is paid. Production from base acreage, excluding the proportionate share acreage, will be paid next. Then, production from nonbase acreage will be paid.

Because operators generally rotate production across all their farms, "Fair and equitable" determinations are made on a farm operator basis. That is, the controlling producer (producer other than a landlord) is allowed to aggregate all the farms under an operator's control for payment purposes. Sugarcane growers are reminded that penalties applied because of enactment of proportionate shares, will be levied on a farm basis.

USDA will seek assurances that each processor has treated each producer "in a fair and equitable manner". USDA will also arbitrate disputes between processors and producers with respect to the sharing of allocation among producers served by a processor.