

**Testimony of
FRED HENSLER
On Behalf of the
SWEETENER USERS ASSOCIATION**

**House Committee on Agriculture
September 13, 2006**

Mr. Chairman, thank you for the opportunity to testify at this hearing on the 2007 farm bill. My name is Fred Hensler, and I am commercial director for raw materials at Mars, Inc. I am testifying today in my capacity as first vice chairman of the Sweetener Users Association. SUA members are the companies who use nutritive sweeteners in their confectionery, bakery, cereal, beverage, dairy product and food manufacturing operations, as well as trade associations representing those same industries.

Sugar Users' Goals

As sugar users, we want and need strong and healthy domestic sugar producers and processors. We believe it is in our interest to have a geographically diverse production base in the United States for both sugar beets and sugar cane. Likewise, we believe there is a need for a strong, independent U.S. cane refining industry.

We see some real problems in the design of current U.S. sugar policy, and I will mention some of those in my testimony. But that does not mean we advocate that the United States eliminate its sugar policy entirely. Instead, we should come together as an industry – growers, processors, refiners and users alike – to arrive at a consensus on the best government policy to meet everyone's needs and serve the public interest. Our organization has hosted industry-wide discussions, and although I certainly cannot report that there is a consensus, I can say that a variety of industry participants – not just users – have recognized that there is a need to talk about change.

Today, I will mention some of the challenges facing the current sugar program and explain why we believe that consideration should be given to a broad range of new policy options. I will point out differences between the sugar program and other agricultural support policies. I will also examine some of the limitations of the current sugar program in both design and administration. Next, I will identify some of the long-term consequences of past and current sugar policies. Finally, I will point out future challenges and provide some recommended principles which we believe should help to guide future sugar policy.

A Program Under Threat

Mr. Chairman, the current sugar program will have to change. It cannot be maintained in its present form in the face of an open border with Mexico, import requirements under multiple free trade agreements, and other trade policy realities.

Last year's hurricanes focused attention on sugar policy, but it is not because of weather that change is needed. We need to adjust our policies because the current design of the sugar program requires placing limits on imports, and our trade obligations will render such a program unworkable. In addition, the current program's marketplace distortions impose unnecessary costs on a variety of groups within society, even though a different program could be designed to continue assisting producers and processors without harming these other groups.

The need for change is more and more widely recognized. Earlier this month, Dow Jones Newswires wrote that "the government shield that protects U.S. sugar producers from competing with imports will effectively come down this year," and quoted Secretary of Agriculture Mike Johanns as saying the following about the current sugar program: "Policies like that have a cost. One way or another, that cost will work its way through our economic system ..." The article quoted another USDA official as saying: "You can't operate a supply-control program if you can't control the supply. You can't operate the supply-control program if the Mexican border is wide open, as it will become October 1 of this year."

Mr. Chairman, there are a number of ways that the sugar program could be reformed, and I will offer some specific examples later in my testimony. But the bottom line is: The program has to change.

Differences from Other Agricultural Programs

Compared to government support policies for other commodities, the sugar program is different in several respects. Two of the most important are import quotas and marketing allotments, both of which affect the availability, timing and control of supplies in the marketplace.

Sugar is one of the few U.S. commodities whose domestic program relies on import quotas as an integral part of the support structure. Current sugar policy employs a tariff rate quota (TRQ) to limit supplies and ensure that the domestic loan program does not result in sugar forfeitures to the government. The past 25 years have shown that this policy tool, despite the best efforts of USDA, is difficult to administer efficiently and effectively and has frequently resulted in market dislocations.

In addition to import quotas, sugar is now virtually alone among U.S. commodities in employing marketing allotments that serve as a mandatory supply management program. Most other program crops had acreage controls until the mid-1990s, but policies were

changed in the 1996 and 2002 farm bills to meet the challenges of an evolving marketplace and the realities of international trade, including the Uruguay Round Agreement on Agriculture and the North American Free Trade Agreement. Conversely, the last farm bill took a step backward by re-introducing marketing allotments as a foundation for sugar policy. That contributed to market dislocations and administrative difficulties for USDA. Sugar is the only major commodity for which the government attempts to actively manage supplies.

The use of these tools in past and current sugar policy has had negative consequences for the entire sugar industry. I will cite several examples, but what they have in common is that the government interjects itself into the marketplace, and that often causes problems for some or all stakeholders. More important, we believe that an overhaul of sugar policy is required to avoid greater problems in the future.

Import Quotas

One of the government's primary supply-control tools is the TRQ. During the past quarter of a century, USDA has used this tool in an attempt to balance the conflicting goals of maintaining adequate domestic sugar supplies and avoiding forfeitures.

We believe that it is difficult, if not impossible, for USDA (or anyone else) to accurately forecast market fundamentals, including the effects of nature, trade agreements and consumer trends, to name just a few. It is also our belief that the TRQ supply-control tool will become increasingly ineffective, as the pace of change in the world increases and our multilateral and bilateral commitments expand. We believe that a more market-oriented approach will best serve future sugar policy needs.

Two specific examples of the TRQ's limitations as a policy tool were apparent over the past year after USDA announced several TRQ increases in the wake of last summer's hurricanes. Both examples are related to market circumstances which compelled USDA to allow quota imports of large quantities of refined sugar – something that is quite unusual.

The United States is obliged by World Trade Organization (WTO) rules to import minimum amounts of both raw and refined sugar. However, refined sugar imports are normally dwarfed by raw imports. Our WTO minimum quota is 1,117,195 metric tons for raw cane sugar, but only 22,000 metric tons for refined sugar. Importing mostly raw sugar helps maintain throughput in our nation's cane sugar refineries, and that is important because this part of the sugar industry has been shrinking for many years.

Since Hurricane Katrina idled a large New Orleans-area sugar refinery for several months, the market was short of refined sugar. That shortage was apparent from the fact that refined sugar prices rallied much more sharply than raw sugar prices. The temporary loss of that refinery reduced demand for raw sugar while tightening refined sugar supplies.

USDA announced several import quota increases for refined sugar, but these quotas were less effective in increasing refined supplies than they might have been, largely because of problems that are not of USDA's making. First, U.S. Customs and Border Protection differentiates between raw and refined sugar on the basis of polarity – a measurement of purity. For U.S. industrial users, sugar needs to be refined to a polarity of 99.8 or 99.9, but Customs considers any sugar with a polarity of 99.5 or greater to be refined sugar, and therefore eligible to fill a refined sugar quota. (This practice stems from a definition of raw sugar in the Harmonized Tariff Schedules of the United States.)

Mexico produces a sugar called *estandar* which is approximately 99.6 polarity. Some other origins, including Brazil, produce similar sugars. These sugars can be imported as refined sugar, and thus help to exhaust the available quota – but they do not immediately add any refined sugar to the U.S. market, since they require further refining in the United States before they can meet normal U.S. manufacturing standards, and be delivered to an industrial user. Thus, USDA's intentions to add refined sugar to the market have in some cases been frustrated. The actual amount of refined sugar imported under the quotas has not been as great as the quota amount.

It is difficult enough to conduct business under challenging market conditions and an intrusive regulatory system. It is even more difficult when the regulation fails to match up to commercial realities. Simply put, the government considers all sugar above 99.5 polarity to be refined, but the U.S. market does not. This inconsistency should be fixed.

Another example of a TRQ problem concerns the type of quota that has been used for refined sugar. A portion of the quotas has been “first-come, first-served,” meaning it is open to all origins, but if early-arriving cargoes fill the quotas, then sugar that has not yet arrived will not enjoy the benefits of the TRQ, and may be charged the prohibitive over-quota duty if it is imported.

There are numerous benefits to a first-come, first-served system, but there are also disadvantages. Such a system strongly favors Canada and Mexico as origins, because the goods can enter U.S. customs territory more quickly than products that must be shipped longer distances. If there are quality issues with the nearby sugar – and there were such issues with Mexican sugar in some cases – then extra costs get built into the system, reflecting the additional steps that must be taken by industrial users before the sugar is really usable.

Again, we cite these examples to show the problems and limitations of the TRQ as a policy tool. If sugar policies were modified so as to make the TRQ unnecessary or less important, we believe that these particular problems would have been addressed more efficiently and effectively, because sellers and buyers would simply source the sugar from other origins. A quota system, by definition, arbitrarily limits sellers', processors', and users' choices. If a TRQ is still used in the future, we are interested in pursuing administrative or legislative remedies to these and other difficulties of TRQ

administration. I am glad to report that this is an area where there also seems to be interest from major grower organizations.

Marketing Allotments

The government's other primary supply-control tool is marketing allotments. USDA uses this policy tool in an attempt to balance the conflicting goals of limiting domestic production, maintaining an adequate balance of domestic beet and cane sugar supplies, meeting minimum import requirements per international trade agreements, and avoiding forfeitures.

Marketing allotments were part of the 1990 farm bill, but were little used. More recently, the principal policy change for sugar in the 2002 farm bill was the re-introduction of marketing allotments. Once again, despite USDA's best efforts, the use of marketing allotments has resulted in several instances of market distortions, such as volatile prices, production limitations and supply shortfalls.

USDA first established an Overall Allotment Quantity (OAQ) before the 2002/03 marketing year, and the Department's initial announcement was more conservative – that is, smaller – than the market expected. A sharp run-up in prices was the result. Subsequently, market conditions caused USDA to increase the OAQ, and prices fell. Such price spikes and sharp declines, caused not by supply-demand fundamentals but by unexpected government action, are not a desirable result of program operations.

In subsequent years, USDA has generally done a good job of setting the OAQ and making adjustments. However, the process by which the OAQ is established remains somewhat opaque. The Department has often operated as if it had a rough stocks target in mind when making its OAQ decisions, but has never said so explicitly. As a result, the market has to try and outguess the government. Market participants must forecast not only what the government will do, but also when the action will take place. As a result, government decisions can have as much impact on the market as planting patterns, weather events or shifts in demand. That is not the case for most other agricultural commodities today, and I would suggest to you that it is not desirable from the standpoint of public policy.

More recently, the shortcomings of this policy tool have become especially obvious. Since last September, sugar markets have been dominated by the aftermath of Hurricanes Katrina and Rita (as well as Hurricane Wilma soon thereafter). Spot prices for refined sugar cited by *Milling & Baking News* reached 50¢ per pound and even higher in a few cases, compared to a more normal range of 22-28¢ per pound. (They are still much higher than during previous periods, according to this publication, which USDA uses as its official price source since there is no futures market for refined sugar.)

Yet even in such an extreme market situation, there were still limited domestic stocks of perfectly good sugar that sellers were willing to sell, and buyers were willing to buy, that

were “blocked” from the marketplace because of the allotment system. Buyer and seller could not come together to consummate a business transaction that was in their mutual interest until they got permission from the government. The result was to exacerbate the already-severe logistical problems – which beset sellers and buyers alike – and further limit the availability of sugar to the marketplace.

Something is wrong with a program that produces that kind of result. Eventually, USDA did act to permit the marketing of the “blocked” sugar. And indeed, Mr. Chairman, SUA would like to commend the Department for the multiple actions it took last fall to try and restore balance to the market. The Department paid attention to the sugar market’s needs and acted promptly. Likewise, the Department’s recent OAQ and TRQ announcements for 2006/07 were responsible and prudent. Criticism of these decisions by some grower groups is unjustified, and I have attached to my testimony a letter that SUA sent to the Department, refuting some of those criticisms.

As we pointed out earlier, the use of marketing allotments as a policy tool creates market distortions and it is virtually impossible for USDA to manage such a program effectively and efficiently. Even at its best, government usually cannot react as quickly as the marketplace demands, especially in turbulent times when all buyers and sellers are scrambling to match up available supplies with pressing demands. In that kind of environment, it is problematic to have a policy which says it is illegal to sell sugar until the government decides otherwise.

I do not want to leave the impression that our concerns about the sugar program relate solely to the aftermath of last year’s hurricanes. After all, no government program can control the weather. In fact, though, the program has not performed well even in calmer markets. More often than not, this sugar program has been associated with surplus, not shortage. Chronic surplus should no more be a policy goal than persistent shortage, and a program that tends to produce one or the other stands in need of change.

Long Term Consequences – Unsustainable Future

Mr. Chairman, we believe that there are compelling reasons to revise current sugar policy. These reasons include the long-term consequences of over a quarter of a century of ill advised sugar policy. We also believe that current sugar policy is unsustainable, and the sooner we can begin to talk about workable alternatives, the better for everyone, including users, refiners, processors and producers alike. Let me review just a few examples:

Use of Domestic Sugar is Flat. The reasons are straightforward and go far beyond the often-cited Atkins Diet, a factor which has recently faded. Price support policies kept domestic sugar priced substantially above alternative sweeteners, which took over entire demand segments. At the same time, the differential between domestic and world sugar prices created an incentive to import sugar-containing products that were not (and under WTO rules could not be) subject to import quotas. Close to a tenth of domestic sugar demand is now being filled by these products.

Loss of U.S. Manufacturing Jobs. High domestic sugar prices provide an added incentive to relocate U.S. food processing jobs overseas. I should note that several factors are used to determine whether or not to relocate manufacturing overseas, including labor and foreign exchange rates. However, the prospect of lower sugar input costs provides an additional powerful incentive to relocate food processing overseas. The past decade has seen several examples of the migration of food manufacturing jobs to overseas locations – and as the Commerce Department stated in a February 2006 report, there has been a sharp difference in job growth within the food industry, with those segments that use sugar losing jobs while non-sugar-using segments experienced modest job growth.

That Commerce Department report noted the loss of 10,000 jobs in sugar-using food and beverage industries from 1997-2002, and suggested the sugar program was a major factor in these job losses. More recent data through 2004 are now available, and unfortunately the picture they paint is even worse than Commerce reported.

From 1997 to 2004, jobs in those segments of the food and beverage industry that use sugar fell by more than 70,000, or almost 10%. By contrast, the number of jobs in non-sugar-using food and beverage sectors grew by more than 35,000 jobs or about 4%.

Mr. Chairman, whenever the issue of the sugar program and jobs comes up, we are told that labor costs, not sugar costs, explain job losses. The fact is, however, that all food and beverage companies incur labor costs, whether they use sugar or not. The U.S. Department of Commerce statistics I have just cited demonstrate that sugar-using industries are losing jobs, and those industries that do not use sugar are adding jobs. It seems to me that this committee has a responsibility to ask whether current sugar program design is hurting industrial employment, and whether an alternative program design could mitigate these effects while still offering protection for producer incomes.

International Trade. The current sugar policies of the United States are difficult to reconcile with the future direction of international trade policy, and our own trade liberalization objectives and obligations. We believe future sugar policy should be redesigned to be more closely aligned with the realities of world trade rules while still protecting producer incomes and promoting greater market orientation.

For example, in 2008 sugar trade with Mexico will be unrestricted. Mexican sugar producers are not subject to marketing allotments. Meanwhile, any eventual Doha Round agreement is likely to require both an expansion of the sugar TRQ, and reductions in “amber box” subsidies – and today’s U.S. sugar program is entirely “amber.”

Even if one assumes the Doha Round will be delayed for some years, U.S. import requirements will increase under the already-enacted Dominican Republic-Central America Free Trade Agreement. Additional FTAs with Peru and Colombia have already been signed, and will further increase import obligations. Pending negotiations with Thailand, when completed, will surely add further quantities.

Combine these FTA amounts with the unlimited quantities that can enter from Mexico, and it should be clear that a sugar program which relies primarily on import restraints faces a dilemma. If marketing allotments remain in effect, they will become more and more restrictive on U.S. producers, locking them into a declining share of their own market. But if marketing allotments are not in effect, the probability of large-scale forfeitures and high government costs will increase.

Principles to Guide Future Sugar Policy

Mr. Chairman, the problems we have identified in current sugar policy can also lead to principles that Congress should consider in shaping sugar policy for the next Farm Bill.

The current program interposes the government among all industry stakeholders through the tariff-rate quota and marketing allotments. Future policies should aim at less government interference in normal business transactions.

For the past quarter of a century, sugar policy has not been sufficiently responsive to market signals and changes in the world economy. This has resulted in unintended consequences such as supply shortages, loan forfeitures, slow growth of domestic sugar consumption, inhibition of international trade, and the relocation of U.S. manufacturing jobs overseas. Future policies should feature greater market orientation, which will address these problems, while still recognizing producers' need for an economic safety net.

Perhaps most important, the current sugar policies of the United States are difficult to reconcile with a rapidly changing world and the future direction of international trade policy, and our own farm and industrial trade objectives. We believe future policies should be redesigned to be more closely aligned with the realities of world trade rules, while still protecting producer incomes and promoting greater market orientation.

Mr. Chairman, a variety of program designs could be consistent with these principles. For example, the committee might decide to make the sugar program more like other farm programs, with marketing loans, direct payments and countercyclical payments. That is exactly what this committee did with the peanut program in 2002, when that program faced challenges that were quite similar to those now facing the sugar program.

I understand that in the course of your field hearings this year, producers of program crops like wheat, feed grains, oilseeds and cotton have generally been supportive of their current programs, which include marketing loans and countercyclical and direct payments. Thus, if Congress chose to shift sugar policy into this model, you would do so with the knowledge that such programs tend to enjoy strong producer support.

Other options could include revenue assurance or a simple system of direct payments. SUA could support any of these alternatives if they achieved our reform goals, because we do recognize the need to safeguard producer incomes.

Let me also emphasize that there might also be acceptable reform options that do not involve direct payments to producers or processors. Again, SUA could certainly support a sugar program that involved direct payments, but we do not wish to confine the debate only to those alternatives.

We believe change is coming, and that all of us – farmers, processors, refiners and users – would be well advised to work together toward a sustainable policy that will meet the needs of all stakeholders alike. We believe those goals are also shared by this Committee, and look forward to working with you as you develop the next Farm Bill.

We thank you for this opportunity.

SWEETENER USERS ASSOCIATION

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August 29, 2006

Honorable J.B. Penn
Under Secretary for Farm and Foreign Agricultural Services
U.S. Department of Agriculture
Washington, D.C. 20250

Dear Mr. Secretary:

In a letter dated August 1, 2006, the Sweetener Users Association expressed its appreciation and support for the Administration's announcement of sugar program provisions for the fiscal year (FY) 2007, modifications to the FY 2006 sugar program and, after years of disputes, an agreement with Mexico to provide a transition to open trade in sweeteners in 2008. Other agricultural groups such as the Corn Refiners Association also expressed their support.

At the same time, a letter from the American Sugar Alliance sharply criticized almost every aspect of your announcement. In SUA's view, these criticisms are misplaced and need to be put in some perspective. Doing so is the purpose of this letter.

- The ASA letter says that **“the overall amount of imported sugar you have allowed will oversupply and disrupt the U.S. sugar market, even while some domestic beet sugar is potentially blocked from sale ...”**

Response: Publicly reported prices for refined sugar remain well above historic ranges, extending an unprecedented period of high refined prices. That is hardly an indication of an “oversupplied” market. As for “blocked” domestic beet sugar, SUA would support an increase in marketing allotments sufficient to prevent any blocked stocks. But the ASA letter fails to mention that “blocked” domestic stocks are a direct result of the marketing allotment laws that sugar program advocates themselves asked Congress to enact.

- The ASA letter says that **“[w]hile a stocks-to-use ratio of 15% had traditionally been an acceptable range, industry consolidation and increasing efficiency in the ability of producers to supply the market have most likely lowered this target by at least 3 percentage points ...”**

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Response: This assertion is baseless; ASA has frequently asserted that the sugar industry is in fact becoming *less* concentrated. At a conference on October 5, 2005, ASA group presented charts which stated that the largest three refined sugar sellers had a lower combined market share in 2005 than in 1999. As for ending stocks, USDA's most recent supply-demand estimates state that a year ago, in the aftermath of Hurricane Katrina, these stocks were 15.1% of total use, yet spot prices for refined sugar at that time were quoted as high as 50 cents per pound for a short period. That hardly makes the case that 15% is inherently a burdensome stocks level. The assertion that the "proper" ratio is 3 percentage points lower is presented with neither substantiation nor evidence. Historically, such a low stocks level would appear to raise serious questions about possible supply disruption.

- The letter continues that a **"recent sharp decline in raw cane sugar futures"** tends to discredit USDA's and USTR's actions.

Response: On August 28, 2006, the November futures contract for domestic sugar closed at 21.66 cents per pound. All other months also closed above 21 cents. Raw sugar futures had traded substantially above this level earlier in the summer, but that was historically abnormal. Current prices are, in fact, quite close to the annual average price level over the 10-year period 1996-2005, according to USDA data.

- ASA says that the **"[e]limination of import shipping patterns raises the possibility of a flood of foreign sugar in the early part of 2006/07 ..."**

Response: Raw sugar is imported by U.S. cane sugar refiners, and the largest cane sugar refining company, which accounts for about 70% of coastal refining capacity, is completely owned by U.S. growers. This fact makes the foreboding reference to a "flood" of imports somewhat odd. In our view, eliminating shipping patterns is a sound decision that will help U.S. cane refiners operate at full capacity during the busy fall season, and will also advance the goal of balancing supplies across all regions of the United States.

- ASA criticizes USDA and USTR for the U.S.-Mexico agreement, speaking favorably of **"13 years of careful adherence to the NAFTA sweetener provisions"** but asserting that now the United States has **"abandoned the rules on U.S.-Mexico sugar trade spelled out in the NAFTA side-letter."**

Response: USDA has adequately responded to this charge, correctly noting that surplus calculations underlying the terms of the agreement are consistent with the NAFTA side-letter. More broadly, the transitional agreement is a balanced and reasonable means to chart a course toward the removal of all trade restrictions in 2008. In the long course of the sweetener dispute, Mexico has certainly acted in violation of its obligations, but the U.S. implementation of the side letter has also been subject to criticism. What is more important now is the actual implementation of the new agreement, and SUA is confident that USDA and USTR will be forthright in defending U.S. interests.

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There is some irony in ASA praising “careful adherence” to NAFTA terms, since U.S. sugar growers were involved in a multi-year exercise with the Mexican sugar industry that contemplated restrictions on over-quota sugar imports, and even an extension of trade restrictions beyond 2008, that would clearly have been inconsistent with both the letter and spirit of the NAFTA.

- ASA says that U.S. sugar producers should not become “**residual suppliers in their own market.**”

Response: SUA agrees, but it is important to understand how that could happen. U.S. producers will only become residual suppliers in their own market if imports take an increasing share of the domestic market while U.S. producers remain constrained by marketing allotments. But as we noted before, it was U.S. producers and processors who demanded, and got, mandatory marketing allotments in the 2002 farm bill.

SUA has always been critical of allotments and agrees that they should not have the result of making our domestic producers the “residual suppliers.” Yet that is the almost inevitable consequence of the current sugar program, which ASA says it wants to extend in the new farm bill. Beginning in 2008 – when the new farm bill will come into effect – NAFTA permits no restrictions on imports of sugar from Mexico. Import quotas for other countries with whom the United States has, or soon will have, free trade agreements, will also increase steadily. These FTAs have all enjoyed broad support within the U.S. agricultural community, and indeed the increase in import requirements can help permit the U.S. sugar refining sector to share in the benefits of expanded demand.

In the face of growing imports from Mexico and other nations, the U.S. sugar program faces one of two outcomes: **(1) Allotments stay in effect and the domestic industry is increasingly squeezed to make room for Mexican and other imported sugar.** That is precisely the prospect that caused Congress, in 2002, to change the peanut program to make it more like policies for other crops. **(2) Allotments do not stay in effect and a market surplus leads to large-scale forfeitures of sugar, increasing taxpayer costs.** This is the scenario embodied in the Congressional Budget Office baseline, which projects taxpayer costs for the sugar program in the years ahead to reach and even exceed \$300 million a year. It is also the scenario contemplated in a study by McKeany-Flavell Company, Inc., commissioned by ASA, which suggests “**forfeitures on the order of one million short tons, raw value.**”

The sugar program is in need of serious reform. Extending the current program in 2007 would set the stage for low producer prices, high government costs and the probable need for a mid-course correction in a fiscally constrained environment. More than ever, it is time for all segments of the U.S. industry to come together to find a more workable sugar policy.

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Thank you again for your careful administration of a difficult program, and your successful efforts to find a balanced solution to a longstanding trade dispute. We look forward to working with you and your colleagues in the future.

An identical letter has been sent to Ambassador Crowder.

Sincerely,

A handwritten signature in black ink that reads "Randy Green". The signature is written in a cursive style with a large, sweeping initial "R".

Randy Green, President