

peanuts notwithstanding repeal of this subpart by Pub. L. 107-171, see section 7959(a)(2) of this title.

SUBPART VII—FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR

Editorial Notes

CODIFICATION

Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938, comprising this subpart, was originally added to act Feb. 16, 1938, ch. 30, title III, by Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3479, and amended Pub. L. 102-237, title I, §111(c)-(k), Dec. 13, 1991, 105 Stat. 1830-1836; Pub. L. 102-535, Oct. 27, 1992, 106 Stat. 3526; Pub. L. 103-66, title I, §1107(b), Aug. 10, 1993, 107 Stat. 324. Part VII is shown herein, however, as having been added by Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 187, without reference to those intervening amendments because of the extensive revision of part VII by Pub. L. 107-171.

§ 1359aa. Definitions

In this subpart:

(1) Human consumption

The term “human consumption”, when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products.

(2) Mainland State

The term “mainland State” means a State other than an offshore State.

(3) Market

(A) In general

The term “market” means to sell or otherwise dispose of in commerce in the United States.

(B) Inclusions

The term “market” includes—

- (i) the forfeiture of sugar under the loan program for sugar established under section 7272 of this title;
- (ii) with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process; and
- (iii) the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary under section 8110 of this title.

(C) Marketing year

Forfeited sugar described in subparagraph (B)(i) shall be considered to have been marketed during the crop year for which a loan is made under the loan program described in that subparagraph.

(4) Offshore State

The term “offshore State” means a sugarcane producing State located outside of the continental United States.

(5) State

Notwithstanding section 1301 of this title, the term “State” means—

- (A) a State;
- (B) the District of Columbia; and

(C) the Commonwealth of Puerto Rico.

(6) United States

The term “United States”, when used in a geographical sense, means all of the States.

(Feb. 16, 1938, ch. 30, title III, §359a, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 187; amended Pub. L. 110-234, title I, §1403(a), May 22, 2008, 122 Stat. 981; Pub. L. 110-246, §4(a), title I, §1403(a), June 18, 2008, 122 Stat. 1664, 1709.)

Editorial Notes

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 1359aa, act Feb. 16, 1938, ch. 30, title III, §359a, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3479; amended Pub. L. 102-237, title I, §111(c), Dec. 13, 1991, 105 Stat. 1830, related to information reporting with respect to sugar and crystalline fructose marketing quotas, prior to the general amendment of this subpart by Pub. L. 107-171.

A prior section 359a of act Feb. 16, 1938, was renumbered section 359e and was classified to section 1359a of this title prior to repeal by Pub. L. 107-171.

AMENDMENTS

2008—Pub. L. 110-246, §1403(a), added pars. (1) and (3) and redesignated former pars. (1) to (4) as (2), (4), (5), and (6), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

§ 1359bb. Flexible marketing allotments for sugar

(a) Sugar estimates

(1) In general

Not later than August 1 before the beginning of each of the 2008 through 2023 crop years for sugarcane and sugar beets, the Secretary shall estimate—

(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

(B) the quantity of sugar that would provide for reasonable carryover stocks;

(C) the quantity of sugar that will be available from carry-in stocks for human consumption in the United States during the crop year;

(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether the articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

(2) Exclusion

The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

(3) Reestimates

The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but not later than the beginning of each of the second through fourth quarters of the crop year.

(b) Sugar allotments**(1) Establishment**

By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 1359cc of this title for the marketing by processors of sugar processed from sugar cane or sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar was produced domestically or imported) at a level that is—

(A) sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 7272 of this title; but

(B) not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) Products

The Secretary may include sugar products, the majority content of which is sucrose for human consumption, derived from sugar cane, sugar beets, molasses, or sugar in the allotments established under paragraph (1) if the Secretary determines it to be appropriate for purposes of this subpart.

(c) Coverage of allotments**(1) In general**

The marketing allotments under this subpart shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane, sugar beets, or in-process beet sugar, whether such sugar beets or in-process beet sugar was produced domestically or imported.

(2) Exceptions

Consistent with the administration of marketing allotments for each of the 2002 through 2007 crop years, the marketing allotments shall not apply to sugar sold—

(A) to facilitate the exportation of the sugar to a foreign country, except that the exports of sugar shall not be eligible to receive credits under reexport programs for refined sugar or sugar containing products administered by the Secretary;

(B) to enable another processor to fulfill an allocation established for that processor; or

(C) for uses other than domestic human consumption, except for the sale of sugar for the production of ethanol or other bioenergy if the disposition of the sugar is adminis-

tered by the Secretary under section 8110 of this title.

(3) Requirement

The sale of sugar described in paragraph (2)(B) shall be—

- (A) made prior to May 1; and
- (B) reported to the Secretary.

(d) Prohibitions**(1) In general**

During all or part of any crop year for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market for domestic human consumption a quantity of sugar in excess of the allocation established for the processor, except—

- (A) to enable another processor to fulfill an allocation established for that other processor; or
- (B) to facilitate the exportation of the sugar.

(2) Civil penalty

Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.

(Feb. 16, 1938, ch. 30, title III, § 359b, as added Pub. L. 107-171, title I, §1403, May 18, 2002, 116 Stat. 188; amended Pub. L. 110-234, title I, §1403(b), May 22, 2008, 122 Stat. 982; Pub. L. 110-246, §4(a), title I, §1403(b), June 18, 2008, 122 Stat. 1664, 1710; Pub. L. 118-79, title I, §1301(b)(1), Feb. 7, 2014, 128 Stat. 688; Pub. L. 115-334, title I, §1301(b)(1), Dec. 20, 2018, 132 Stat. 4511.)

Editorial Notes**CODIFICATION**

Provisions of law applicable to sugarcane or sugar beets for the 2023 crop year pursuant to title I of Pub. L. 113-79 and amendment made by section 1301 of Pub. L. 115-334 applicable to the 2024 crop year for sugarcane or sugar beets, see section 102(c)(1) of Pub. L. 118-22, set out in an Extension of Agricultural Programs note under section 9001 of this title.

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 1359bb, act Feb. 16, 1938, ch. 30, title III, §359b, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3480; amended Pub. L. 102-237, title I, §111(d), Dec. 13, 1991, 105 Stat. 1831; Pub. L. 103-66, title I, §1107(b), Aug. 10, 1993, 107 Stat. 324, related to marketing allotments for sugar and crystalline fructose, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-334 substituted “2023” for “2018” in introductory provisions.

2014—Subsec. (a)(1). Pub. L. 118-79 substituted “2018” for “2012”.

2008—Pub. L. 110-246, §1403(b), amended section generally, substituting provisions relating to sugar estimates for 2008 through 2012 crop years, establishment of allotments, coverage of allotments, and prohibition

against marketing in excess of allotments, for provisions relating to sugar estimates for 2002 through 2007 crop years, establishment of allotments, and prohibition against marketing in excess of allotments.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

§ 1359cc. Establishment of flexible marketing allotments

(a) In general

The Secretary shall establish flexible marketing allotments for sugar for any crop year in which the allotments are required under section 1359bb(b) of this title in accordance with this section.

(b) Overall allotment quantity

(1) In general

The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (referred to in this subpart as the “overall allotment quantity”) at a level that is—

(A) sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid forfeiture of sugar to the Commodity Credit Corporation; but

(B) not less than a quantity equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) Adjustment

Subject to paragraph (1), the Secretary shall adjust the overall allotment quantity to maintain—

(A) raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and

(B) adequate supplies of raw and refined sugar in the domestic market.

(c) Marketing allotment for sugar derived from sugar beets and sugar derived from sugarcane

The overall allotment quantity for the crop year shall be allotted between—

(1) sugar derived from sugar beets by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 54.35 percent; and

(2) sugar derived from sugarcane by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 45.65 percent.

(d) Filling cane sugar and beet sugar allotments

(1) Cane sugar

Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane.

(2) Beet sugar

Each marketing allotment for beet sugar established under this section may only be filled

with sugar domestically processed from sugar beets or in-process beet sugar.

(e) State cane sugar allotments

(1) In general

The allotment for sugar derived from sugarcane shall be further allotted, among the States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner as provided in this subsection and section 1359dd(b)(1)(D) of this title.

(2) Offshore allotment

(A) Collectively

Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

(B) Individually

The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

(iii) past processings of sugar from sugarcane, based on the 3-year average of the 1998 through 2000 crop years.

(3) Mainland allotment

The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.

(f) Filling cane sugar allotments

Except as provided in section 1359ee of this title, a State cane sugar allotment established under subsection (e) for a crop year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.