

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.

(g) Adjustment of marketing allotments**(1) Adjustments****(A) In general**

Subject to subparagraph (B), the Secretary shall, based on reestimates under section 1359bb(a)(3) of this title, adjust upward or downward marketing allotments in a fair and equitable manner, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

(B) Limitation

In carrying out subparagraph (A), the Secretary may not reduce the overall allotment quantity to a quantity of less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) Allocation to processors

In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 1359dd of this title, and each proportionate share established with respect to the allotment under section 1359ff(c) of this title, shall be increased or decreased by the same percentage that the allotment is increased or decreased.

(3) Carry-over of reductions

Whenever a marketing allotment for a crop year is required to be reduced during the crop year under this subsection, if, at the time of the reduction, the quantity of sugar marketed exceeds the processor's reduced allocation, the allocation of an allotment next established for the processor shall be reduced by the quantity of the excess sugar marketed.

(Feb. 16, 1938, ch. 30, title III, § 359c, as added Pub. L. 107-171, title I, § 1403, May 13, 2002, 116 Stat. 189; amended Pub. L. 110-234, title I, § 1403(c), May 22, 2008, 122 Stat. 983; Pub. L. 110-246, § 4(a), title I, § 1403(c), June 18, 2008, 122 Stat. 1664, 1712.)

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 1359cc, act Feb. 16, 1938, ch. 30, title III, § 359c, as added Pub. L. 101-624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3481; amended Pub. L. 102-237, title I, § 111(e), Dec. 13, 1991, 105 Stat. 1832, related to establishment of marketing allotments, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-246, § 1403(c)(1), added subsec. (b) and struck out former subsec. (b) which related to: in par. (1), establishment of the overall allotment quantity by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks for the crop year 1,532,000 short tons, raw value, and carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory; and in par. (2), adjustment of overall allotment quantity to avoid the forfeiture of sugar to the Commodity Credit Corporation.

Subsec. (d)(2). Pub. L. 110-246, § 1403(c)(2), inserted “or in-process beet sugar” before period at end.

Subsec. (g)(1). Pub. L. 110-246, § 1403(c)(3), substituted “Adjustments” for “In general” in par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, substituted “Subject to subparagraph (B), the Secretary” for “The Secretary”, and added subpar. (B).

Subsec. (h). Pub. L. 110-246, § 1403(c)(4), struck out subsec. (h). Prior to amendment, text read as follows: “Whenever the Secretary estimates or reestimates under section 1359bb(a) of this title, or has reason to believe, that imports of sugars, syrups or molasses for human consumption or to be used for the extraction of sugar for human consumption, whether under a tariff-rate quota or in excess or outside of a tariff-rate quota, will exceed 1,532,000 short tons (raw value equivalent) (excluding any imports attributable to reassignment under paragraph (1)(D) or (2)(C) of section 1359ee(b) of this title), and that the imports would lead to a reduction of the overall allotment quantity, the Secretary shall suspend the marketing allotments established under this section until such time as the imports have been restricted, eliminated, or reduced to or below the level of 1,532,000 short tons (raw value equivalent).”

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§ 1359dd. Allocation of marketing allotments**(a) Allocation to processors**

Whenever marketing allotments are established for a crop year under section 1359cc of this title, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

(b) Hearing and notice**(1) Cane sugar****(A) In general**

The Secretary shall make allocations for cane sugar after a hearing, if requested by the affected sugarcane processors and growers, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations under this paragraph. Each such allocation shall be subject to adjustment under section 1359cc(g) of this title.

(B) Multiple processor States

Except as provided in subparagraphs (C) and (D), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

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

(ii) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year; and

(iii) past processings of sugar from sugarcane, based on the average of the 3 highest years of production during the 1996 through 2000 crop years.