

(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in the 2 highest of the 1999, 2000, and 2001 crop years.

(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

(6) Violation

(A) In general

Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the crop year, or otherwise violate proportionate share regulations issued by the Secretary under section 1359hh(a) of this title.

(B) Determination of violation

No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a crop year.

(C) Civil penalty

Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane for sugar in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the crop year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

(7) Waiver

Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

(8) Adjustments

Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugar from sugarcane produced by producers subject to the

proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

(Feb. 16, 1938, ch. 30, title III, §359f, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 198; amended Pub. L. 110-234, title I, §1403(f), May 22, 2008, 122 Stat. 986; Pub. L. 110-246, §4(a), title I, §1403(f), June 18, 2008, 122 Stat. 1664, 1714; Pub. L. 113-79, title I, §1609(a), Feb. 7, 2014, 128 Stat. 709.)

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 1359ff, act Feb. 16, 1938, ch. 30, title III, §359f, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3484; amended Pub. L. 102-237, title I, §111(h), Dec. 13, 1991, 105 Stat. 1834; Pub. L. 102-535, Oct. 27, 1992, 106 Stat. 3526, related to provisions applicable to producers, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2014—Subsec. (c)(1)(B). Pub. L. 113-79 inserted period at end.

2008—Subsec. (c). Pub. L. 110-246, §1403(f), added par. (1), redesignated former pars. (1) to (7) as (2) to (8), respectively, in par. (3), substituted “paragraph (2)” for “paragraph (1)”, “quantity of sugar produced from sugarcane” for “quantity of sugarcane”, and “paragraph (8)” for “paragraph (7)”, in par. (6)(C), substituted “acreage of sugarcane for sugar” for “acreage of sugarcane”, in par. (8), substituted “the amount of sugar from sugarcane” for “the amount of sugarcane”, and struck out former par. (8) which related to petition to modify allocations to allow delivery to another sugarcane processing company if a processing facility was closed and the growers that had delivered sugarcane to the facility prior to closure had elected to deliver their sugarcane to another company.

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.

§ 1359gg. Special rules

(a) Transfer of acreage base history

(1) Transfer authorized

For the purpose of establishing proportionate shares for sugarcane farms under section 1359ff(c) of this title, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

(2) Converted acreage base**(A) In general**

Sugarcane acreage base established under section 1359ff(c) of this title that has been or is converted to nonagricultural use on or after May 13, 2002, may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

(B) Notification

Not later than 90 days after the Secretary becomes aware of a conversion of any sugarcane acreage base to a nonagricultural use, the Secretary shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base.

(C) Initial transfer period

The owner of the base attributable to the acreage at the time of the conversion shall be afforded 90 days from the date of the receipt of the notification under subparagraph (B) to transfer the base to 1 or more farms owned by the owner.

(D) Grower of record

If a transfer under subparagraph (C) cannot be accomplished during the period specified in that subparagraph, the grower of record with regard to the acreage base on the date on which the acreage was converted to nonagricultural use shall—

- (i) be notified; and
- (ii) have 90 days from the date of the receipt of the notification to transfer the base to 1 or more farms operated by the grower.

(E) Pool distribution**(i) In general**

If transfers under subparagraphs (B) and (C) cannot be accomplished during the periods specified in those subparagraphs, the county committee of the Farm Service Agency for the applicable county shall place the acreage base in a pool for possible assignment to other farms.

(ii) Acceptance of requests

After providing reasonable notice to farm owners, operators, and growers of record in the county, the county committee shall accept requests from owners, operators, and growers of record in the county.

(iii) Assignment

The county committee shall assign the acreage base to other farms in the county that are eligible and capable of accepting the acreage base, based on a random drawing from among the requests received under clause (ii).

(F) Statewide reallocation**(i) In general**

Any acreage base remaining unassigned after the transfers and processes described in subparagraphs (A) through (E) shall be made available to the State committee of

the Farm Service Agency for allocation among the remaining county committees in the State representing counties with farms eligible for assignment of the base, based on a random drawing.

(ii) Allocation

Any county committee receiving acreage base under this subparagraph shall allocate the acreage base to eligible farms using the process described in subparagraph (E).

(G) Status of reassigned base

After acreage base has been reassigned in accordance with this subparagraph, the acreage base shall—

- (i) remain on the farm; and
- (ii) be subject to the transfer provisions of paragraph (1).

(b) Preservation of acreage base history

If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 1359ff(c) of this title, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 5 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

(c) Revisions of allocations and proportionate shares

The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 1359dd of this title, or any proportionate share established or adjusted for a farm under section 1359ff(c) of this title, on the same basis as the initial allocation or proportionate share was required to be established.

(d) Transfers of mill allocations**(1) Transfer authorized**

A producer in a proportionate share State, upon written consent from all affected crop-share owners (or the representative of the affected crop-share owners) of a farm may deliver sugarcane to another processing company if the additional delivery, when combined with such other processing company's existing deliveries, does not exceed the processing capacity of the company.

(2) Allocation adjustment

Notwithstanding section 1359dd of this title, the Secretary shall adjust the allocations of each of such processing companies affected by a transfer under paragraph (1) to reflect the change in deliveries, based on—

- (A) the number of acres of sugarcane base being transferred; and
- (B) the pro rata amount of allocation at the processing company holding the applica-

ble allocation that equals the contribution of the grower to allocation of the processing company for the sugarcane acreage base being transferred.

(Feb. 16, 1938, ch. 30, title III, §359g, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 201; amended Pub. L. 110-234, title I, §1403(g), May 22, 2008, 122 Stat. 987; Pub. L. 110-246, §4(a), title I, §1403(g), June 18, 2008, 122 Stat. 1664, 1715.)

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 1359gg, act Feb. 16, 1938, ch. 30, title III, §359g, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3486; amended Pub. L. 102-237, title I, §111(i), Dec. 13, 1991, 105 Stat. 1835, related to special rules, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, §1403(g)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “For the purpose of establishing proportionate shares for sugarcane farms under section 1359ff(c) of this title, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.”

Subsec. (d)(1). Pub. L. 110-246, §1403(g)(2)(A), inserted “affected” before “crop-share owners” in two places and struck out “, and from the processing company holding the applicable allocation for such shares,” before “may deliver”.

Subsec. (d)(2). Pub. L. 110-246, §1403(g)(2)(B), struck out “the product of” after “based on” in introductory provisions, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which read as follows:

“(A) the number of acres of proportionate shares being transferred; and

“(B) the State’s per acre yield goal established under section 1359ff(c)(3) of this title.”

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.

§ 1359hh. Regulations; violations; publication of Secretary’s determinations; jurisdiction of the courts; United States attorneys

(a) Regulations

The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this subpart.

(b) Violation

Any person knowingly violating any regulation of the Secretary issued under subsection (a) shall be subject to a civil penalty of not more than \$5,000 for each violation.

(c) Publication in Federal Register

Each determination issued by the Secretary to establish, adjust, or suspend allotments under this subpart shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

(d) Jurisdiction of courts; United States attorneys

(1) Jurisdiction of courts

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subpart or any regulation issued thereunder.

(2) United States attorneys

Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this subpart. The Secretary may elect not to refer to a United States attorney any violation of this subpart or regulation when the Secretary determines that the administration and enforcement of this subpart would be adequately served by written notice or warning to any person committing the violation.

(e) Nonexclusivity of remedies

The remedies and penalties provided for in this subpart shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

(Feb. 16, 1938, ch. 30, title III, §359h, as added Pub. L. 107-171, title I, §1403, May 13, 2002, 116 Stat. 202.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1359hh, act Feb. 16, 1938, ch. 30, title III, §359h, as added Pub. L. 101-624, title IX, §902, Nov. 28, 1990, 104 Stat. 3486; amended Pub. L. 102-237, title I, §111(j), Dec. 13, 1991, 105 Stat. 1836, related to regulations, violations, publication of Secretary’s determinations, jurisdiction of courts, and United States attorneys, prior to the general amendment of this subpart by Pub. L. 107-171.

§ 1359ii. Appeals

(a) In general

An appeal may be taken to the Secretary from any decision under section 1359dd of this title establishing allocations of marketing allotments, or under section 1359ff or 1359gg(d) of this title, by any person adversely affected by reason of any such decision.

(b) Procedure

(1) Notice of appeal

Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary’s decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is