

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 L. 110-234 were repealed by section 4(a) of Pub.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

made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

(2) Hearing

The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, § 359i, as added Pub. L. 107-171, title I, § 1403, May 13, 2002, 116 Stat. 202; amended Pub. L. 110-234, title I, § 1403(h), May 22, 2008, 122 Stat. 988; Pub. L. 110-246, § 4(a), title I, § 1403(h), June 18, 2008, 122 Stat. 1664, 1716.)

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 1359ii, act Feb. 16, 1938, ch. 30, title III, § 359i, as added Pub. L. 101-624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3487; amended Pub. L. 102-237, title I, § 111(k), Dec. 13, 1991, 105 Stat. 1836, related to appeals, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, § 1403(h)(1), inserted “or 1359gg(d)” after “1359ff”.

Subsec. (c). Pub. L. 110-246, § 1403(h)(2), struck out subsec. (c) which related to special appeal process regarding beet sugar allocations.

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.

§ 1359jj. Administration

(a) Use of certain agencies

In carrying out this subpart, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 590h(b) of title 16, and the departments and agencies of the United States Government.

(b) Use of Commodity Credit Corporation

The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out this subpart.

(Feb. 16, 1938, ch. 30, title III, § 359j, as added Pub. L. 107-171, title I, § 1403, May 13, 2002, 116 Stat. 203.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1359jj, act Feb. 16, 1938, ch. 30, title III, § 359j, as added Pub. L. 101-624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3488, related to administration of this subpart, prior to the general amendment of this subpart by Pub. L. 107-171.

§ 1359kk. Administration of tariff rate quotas

(a) Establishment

(1) In general

Except as provided in paragraph (2) and notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements that have been approved by Congress.

(2) Exception

Paragraph (1) shall not apply to specialty sugar.

(b) Adjustment

(1) Before April 1

Before April 1 of each fiscal year, if there is an emergency shortage of sugar in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event as determined by the Secretary—

(A) the Secretary shall take action to increase the supply of sugar in accordance with sections 1359cc(b)(2) and 1359ee(b) of this title, including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, and domestic raw cane sugar refining capacity has been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 7272 of this title.

(2) On or after April 1

On or after April 1 of each fiscal year—

(A) the Secretary may take action to increase the supply of sugar in accordance with sections 1359cc(b)(2) and 1359ee(b) of this title, including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 7272 of this title.

(Feb. 16, 1938, ch. 30, title III, § 359k, as added Pub. L. 110-234, title I, § 1403(j), May 22, 2008, 122 Stat. 988, and Pub. L. 110-246, § 4(a), title I, § 1403(j), June 18, 2008, 122 Stat. 1664, 1717.)