

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.

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 applicable 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.)

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.”

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.)

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.