
7 U.S. Code § 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.

(C) Talisman processing facility

In the case of allotments under subparagraph (B) attributable to the operations of the Talisman processing facility before May 13, 2002, the Secretary shall allocate the allotment among processors in the State under subparagraph (A) in accordance with the agreements of March 25 and 26, 1999, between the affected processors and the Secretary of the Interior.

(D) Proportionate share States

In the case of States subject to section 1359ff(c) of this title, 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 1997 through 2001 crop years;
- (ii) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and

(iii) past processings of sugar from sugarcane, based on the average of the 2 highest crop years of crop production during the 1997 through 2001 crop years.

(E) New entrants

(i) In general

Notwithstanding subparagraphs (B) and (D), the Secretary, on application of any processor that begins processing sugarcane on or after May 13, 2002, and after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, may provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located.

(ii) Proportionate share States

In the case of proportionate share States, the Secretary shall establish proportionate shares in a quantity sufficient to produce the sugarcane required to satisfy the allocations.

(iii) Limitations

The allotment for a new processor under this subparagraph shall not exceed—

- (I) in the case of the first crop year of operation of a new processor, 50,000 short tons (raw value); and
- (II) in the case of each subsequent crop year of operation of the new processor, a quantity established by the Secretary in accordance with this subparagraph and the criteria described in subparagraph (B) or (D), as applicable.

(iv) New entrant States

(I) In general

Notwithstanding subparagraphs (A) and (C) of section 1359cc(e)(3) of this title, to accommodate an allocation under clause (i) to a new processor located in a new entrant mainland State, the Secretary shall provide the new entrant mainland State with an allotment.

(II) Effect on other allotments

The allotment to any new entrant mainland State shall be subtracted, on a pro rata basis, from the allotments otherwise allotted to each mainland State under section 1359cc(e)(3) of this title.

(v) Adverse effects

Before providing an initial processor allocation or State allotment to a new entrant processor or a new entrant State under this subparagraph, the Secretary shall take into consideration any adverse effects that the provision of the allocation or allotment may have on existing cane processors and producers in mainland States.

(vi) Ability to market

Consistent with section 1359cc of this title and this section, any processor allocation or State allotment made to a new entrant processor or to a new entrant State under this subparagraph shall be provided only after the applicant processor, or the applicable processors in the State, have demonstrated the ability to process, produce, and market (including the transfer or delivery of the raw cane sugar to a refinery for further processing or marketing) raw cane sugar for the crop year for which the allotment is applicable.

(vii) Prohibition

Not more than 1 processor allocation provided under this subparagraph may be applicable to any individual sugar processing facility.

(F) Transfer of ownership

If a sugarcane processor is sold or otherwise transferred to another owner or is closed as part of an affiliated corporate group processing consolidation, the Secretary shall transfer the allotment allocation for the processor to the purchaser, new owner, successor in interest, or any remaining processor of an affiliated entity, as applicable, of the processor.

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)