

~~and shall be used for all aspects of the policy relating to the calculations of premium, liability, and indemnities.~~

~~(3) QUALITY ADJUSTMENT. For the purposes of quality adjustment only, the average support price per pound of peanuts shall be a price equal to 17.75 cents per pound. Quality under the crop insurance policy for peanuts shall be adjusted under procedures issued by the Federal Crop Insurance Corporation.~~

Subtitle D—Sugar

SEC. 1401. SUGAR PROGRAM.

(a) EXTENSION AND MODIFICATION OF EXISTING SUGAR PROGRAM.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:

“SEC. 156. SUGAR PROGRAM.

“(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

“(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

“(c) LOAN RATE ADJUSTMENTS.—

“(1) IN GENERAL.—The Secretary may reduce the loan rate specified in subsection (a) for domestically grown sugarcane and subsection (b) for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

“(2) EXTENT OF REDUCTION.—The Secretary shall not reduce the loan rate under subsection (a) or (b) below a rate that provides an equal measure of support to that provided by other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

“(3) ANNOUNCEMENT OF REDUCTION.—The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

“(4) DEFINITIONS.—In this subsection:

“(A) AGREEMENT ON AGRICULTURE.—The term “Agreement on Agriculture” means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)), or any amendatory or successor agreement.

“(B) MAJOR SUGAR COUNTRIES.—The term “major sugar growing, producing, and exporting countries” means—

“(i) the countries of the European Union; and

“(ii) the 10 foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest quantity of sugar.

“(d) TERM OF LOANS.—

“(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

“(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

“(B) the end of the fiscal year in which the loan is made.

“(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

“(A) be made at the loan rate in effect at the time the second loan is made; and

“(B) mature in 9 months less the quantity of time that the first loan was in effect.

“(e) LOAN TYPE; PROCESSOR ASSURANCES.—

“(1) NONRECOURSE LOANS.—The Secretary shall carry out this section through the use of nonrecourse loans.

“(2) PROCESSOR ASSURANCES.—

“(A) IN GENERAL.—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

“(B) MINIMUM PAYMENTS.—

“(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

“(ii) LIMITATION.—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

“(iii) EFFECT OF DISASTER.—The Secretary may not bar a beet sugar processor from eligibility to obtain a loan under this section because of the failure of the processor to provide the appropriate minimum payment established under this subsection if the failure—

“(I) occurred during a crop year prior to the date of enactment of the Farm Security and Rural Investment Act of 2002; and

“(II) was related, at least in part, to the effects of a natural disaster, including damage from freeze.

“(3) ADMINISTRATION.—The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on the date of enactment of the Farm Security and Rural Investment Act of 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

“(f) LOANS FOR IN-PROCESS SUGAR.—

“(1) DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.—In this subsection, the term ‘in-process sugars and syrups’ does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

“(2) AVAILABILITY.—The Secretary shall make nonrecourse loans available to processors of a crop of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from the crop.

“(3) LOAN RATE.—The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, as determined by the Secretary on the basis of the source material for the in-process sugars and syrups.

“(4) FURTHER PROCESSING ON FORFEITURE.—

“(A) IN GENERAL.—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

“(B) TRANSFER TO CORPORATION.—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

“(C) PAYMENT TO PROCESSOR.—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

“(i) the difference between—

“(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

“(II) the loan rate the processor received under paragraph (3); by

“(ii) the quantity of sugar transferred to the Secretary.

“(5) LOAN CONVERSION.—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

“(6) TERM OF LOAN.—The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (d).

“(g) AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.—

“(1) IN GENERAL.—Subject to subsection (e)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

“(2) INVENTORY DISPOSITION.—

“(A) IN GENERAL.—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

“(B) ADDITIONAL AUTHORITY.—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.

“(h) INFORMATION REPORTING.—

“(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

“(2) DUTY OF PRODUCERS TO REPORT.—

“(A) PROPORTIONATE SHARE STATES.—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

“(B) OTHER STATES.—The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

“(3) DUTY OF IMPORTERS TO REPORT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

“(B) TARIFF-RATE QUOTAS.—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

“(4) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than \$10,000 for each such violation.

“(5) MONTHLY REPORTS.—Taking into consideration the information received under this subsection, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

“(i) **SUBSTITUTION OF REFINED SUGAR.**—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

“(j) **EFFECTIVE PERIOD.**—This section shall be effective only for the 1996 through 2007 crops of sugar beets and sugarcane.”.

(b) **EFFECTIVE DATE OF ASSESSMENT TERMINATION.**—Subsection (f) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(f)), as in effect immediately before the enactment of the Farm Security and Rural Investment Act of 2002, is deemed to have been repealed effective as of October 1, 2001.

7 USC 7272 note.

(c) **INTEREST RATE.**—Section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “Notwithstanding”; and

(2) by adding at the end the following:

“(b) **SUGAR.**—For purposes of this section, raw cane sugar, refined beet sugar, and in-process sugar eligible for a loan under section 156 shall not be considered an agricultural commodity.”.

SEC. 1402. STORAGE FACILITY LOANS.

7 USC 7971.

(a) **IN GENERAL.**—Notwithstanding any other provision of law and as soon as practicable after the date of enactment of this Act, the Commodity Credit Corporation shall amend part 1436 of title 7, Code of Federal Regulations, to establish a sugar storage facility loan program to provide financing for processors of domestically-produced sugarcane and sugar beets to construct or upgrade storage and handling facilities for raw sugars and refined sugars.

(b) **ELIGIBLE PROCESSORS.**—A storage facility loan described in subsection (a) shall be made available to any processor of domestically produced sugarcane or sugar beets that (as determined by the Secretary)—

(1) has a satisfactory credit history;

(2) has a need for increased storage capacity, taking into account the effects of marketing allotments; and

(3) demonstrates an ability to repay the loan.

(c) **TERM OF LOANS.**—A storage facility loan described in subsection (a) shall—

(1) have a minimum term of 7 years; and

(2) be in such amounts and on such terms and conditions (including terms and conditions relating to downpayments, collateral, and eligible facilities) as are normal, customary, and appropriate for the size and commercial nature of the borrower.

SEC. 1403. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 359aa et seq.) is amended to read as follows:

**“PART VII—FLEXIBLE MARKETING
ALLOTMENTS FOR SUGAR**

7 USC 1359aa.

“SEC. 359a. DEFINITIONS.

“In this part:

“(1) **MAINLAND STATE.**—The term ‘mainland State’ means a State other than an offshore State.

“(2) **OFFSHORE STATE.**—The term ‘offshore State’ means a sugarcane producing State located outside of the continental United States.

“(3) **STATE.**—Notwithstanding section 301, the term ‘State’ means—

“(A) a State;

“(B) the District of Columbia; and

“(C) the Commonwealth of Puerto Rico.

“(4) **UNITED STATES.**—The term ‘United States’, when used in a geographical sense, means all of the States.

7 USC 1359bb.

“SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.“(a) **SUGAR ESTIMATES.**—

Deadline.

“(1) **IN GENERAL.**—Not later than August 1 before the beginning of each of the 2002 through 2007 crop years, the Secretary shall estimate—

“(A) the quantity of sugar that will be consumed in the United States during the crop year;

“(B) the quantity of sugar that would provide for reasonable carryover stocks;

“(C) the quantity of sugar that will be available from carry-in stocks for consumption in the United States during the crop year;

“(D) the quantity of sugar that will be available from the domestic processing of sugarcane and sugar beets; and

“(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether such articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

“(2) **EXCLUSION.**—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

“(3) **REESTIMATES.**—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but no later than the beginning of each of the second through fourth quarters of the crop year.

“(b) **SUGAR ALLOTMENTS.**—

“(1) **IN GENERAL.**—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar beets and from domestically produced sugarcane at a level that the Secretary estimates will result in no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

“(2) PRODUCTS.—The Secretary may include sugar products, whose majority content is sucrose for human consumption, derived from sugarcane, sugar beets, molasses, or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

“(c) PROHIBITIONS.—

“(1) IN GENERAL.—During any crop year or portion thereof for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market a quantity of sugar in excess of the allocation established for such processor, except to enable another processor to fulfill an allocation established for such other processor or to facilitate the exportation of such sugar.

“(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.

“(3) DEFINITION OF MARKET.—For purposes of this part, the term ‘market’ shall mean to sell or otherwise dispose of in commerce in the United States (including the forfeiture of sugar under the loan program for sugar under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) and, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process).

“SEC. 359c. ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.

7 USC 1359cc.

“(a) IN GENERAL.—The Secretary shall establish flexible marketing allotments for sugar for any crop year in which the allotments are required under section 359b(b) 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 (in this part referred to as the ‘overall allotment quantity’) by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the crop year) for the crop year, as determined under section 359b(a)—

“(A) 1,532,000 short tons, raw value; and

“(B) carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory.

“(2) ADJUSTMENT.—The Secretary shall adjust the overall allotment quantity to avoid the forfeiture of sugar to the Commodity Credit Corporation.

“(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.

“(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 359d(b)(1)(D).

“(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 359e, 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) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(3), 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.

“(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 359d, and each proportionate share established with respect to the allotment under section 359f(c), 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.

“(h) SUSPENSION OF ALLOTMENTS.—Whenever the Secretary estimates or reestimates under section 359b(a), 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 359e(b)), 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).

“SEC. 359d. ALLOCATION OF MARKETING ALLOTMENTS.

7 USC 1359dd.

“(a) ALLOCATION TO PROCESSORS.—Whenever marketing allotments are established for a crop year under section 359c, 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 359c(g).

“(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 the date of enactment of this subparagraph, 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 359f(c), 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 the date of enactment of this subparagraph, 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 359c(e)(3), 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 359c(e)(3).

“(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 359c 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.—Except as otherwise provided in section 359f(c)(8), 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.

“(2) BEET SUGAR.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph and sections 359c(g), 359e(b), and 359f(b), the Secretary shall make allocations for beet sugar among beet sugar processors for each crop year that allotments are in effect on the basis of the adjusted weighted average quantity of beet sugar produced by the processors for each of the 1998 through 2000 crop years, as determined under this paragraph.

“(B) QUANTITY.—The quantity of an allocation made for a beet sugar processor for a crop year under subparagraph (A) shall bear the same ratio to the quantity of allocations made for all beet sugar processors for the crop year as the adjusted weighted average quantity of beet sugar produced by the processor (as determined under subparagraphs (C) and (D)) bears to the total of the adjusted weighted average quantities of beet sugar produced by all processors (as so determined).

“(C) **WEIGHTED AVERAGE QUANTITY.**—Subject to subparagraph (D), the weighted quantity of beet sugar produced by a beet sugar processor during each of the 1998 through 2000 crop years shall be (as determined by the Secretary)—

“(i) in the case of the 1998 crop year, 25 percent of the quantity of beet sugar produced by the processor during the crop year;

“(ii) in the case of the 1999 crop year, 35 percent of the quantity of beet sugar produced by the processor during the crop year; and

“(iii) in the case of the 2000 crop year, 40 percent of the quantity of beet sugar produced by the processor (including any quantity of sugar received from the Commodity Credit Corporation) during the crop year.

“(D) **ADJUSTMENTS.**—

“(i) **IN GENERAL.**—The Secretary shall adjust the weighted average quantity of beet sugar produced by a beet sugar processor during the 1998 through 2000 crop years under subparagraph (C) if the Secretary determines that the processor—

“(I) during the 1996 through 2000 crop years, opened a sugar beet processing factory;

“(II) during the 1998 through 2000 crop years, closed a sugar beet processing factory;

“(III) during the 1998 through 2000 crop years, constructed a molasses desugarization facility; or

“(IV) during the 1998 through 2000 crop years, suffered substantial quality losses on sugar beets stored during any such crop year.

“(ii) **QUANTITY.**—The quantity of beet sugar produced by a beet sugar processor under subparagraph (C) shall be—

“(I) in the case of a processor that opened a sugar beet processing factory, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is opened by the processor;

“(II) in the case of a processor that closed a sugar beet processing factory, decreased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is closed by the processor;

“(III) in the case of a processor that constructed a molasses desugarization facility, increased by 0.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each

molasses desugarization facility that is constructed by the processor; and

“(IV) in the case of a processor that suffered substantial quality losses on stored sugar beets, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph).

“(E) PERMANENT TERMINATION OF OPERATIONS OF A PROCESSOR.—If a processor of beet sugar has been dissolved, liquidated in a bankruptcy proceeding, or otherwise has permanently terminated operations (other than in conjunction with a sale or other disposition of the processor or the assets of the processor), the Secretary shall—

“(i) eliminate the allocation of the processor provided under this section; and

“(ii) distribute the allocation to other beet sugar processors on a pro rata basis.

“(F) SALE OF ALL ASSETS OF A PROCESSOR TO ANOTHER PROCESSOR.—If a processor of beet sugar (or all of the assets of the processor) is sold to another processor of beet sugar, the Secretary shall transfer the allocation of the seller to the buyer unless the allocation has been distributed to other sugar beet processors under subparagraph (E).

“(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

“(i) IN GENERAL.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold factory or factories to the total allocation of the seller.

“(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

“(I) during the remainder of the crop year during which the sale described in clause (i) occurs (referred to in this subparagraph as the ‘initial crop year’); and

“(II) each subsequent crop year (referred to in this subparagraph as a ‘subsequent crop year’), subject to clause (iii).

“(iii) SUBSEQUENT CROP YEARS.—

“(I) IN GENERAL.—The assignment of the allocation under clause (i) shall apply during each subsequent crop year unless the acquired factory or factories continue in operation for less than the initial crop year and the first subsequent crop year.

“(II) REASSIGNMENT.—If the acquired factory or factories do not continue in operation for the complete initial crop year and the first subsequent

crop year, the Secretary shall reassign the temporary allocation to other processors of beet sugar on a pro rata basis.

“(iv) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the transferred allocation to the buyer for the purchased factory or factories cannot be filled by the production of the purchased factory or factories for the initial crop year or a subsequent crop year, the remainder of the transferred allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

“(H) NEW ENTRANTS STARTING PRODUCTION OR REOPENING FACTORIES.—

“(i) IN GENERAL.—Except as provided by clause (ii), if an individual or entity that does not have an allocation of beet sugar under this part (referred to in this paragraph as a ‘new entrant’) starts processing sugar beets after the date of enactment of this subparagraph, or acquires and reopens a factory that produced beet sugar during previous crop years that (at the time of acquisition) has no allocation associated with the factory under this part, the Secretary shall—

“(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar; and

“(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the new allocation.

“(ii) EXCEPTION.—If a new entrant acquires and reopens a factory that previously produced beet sugar from sugar beets and from sugar beet molasses but the factory last processed sugar beets during the 1997 crop year and the new entrant starts to process sugar beets at such factory after the date of enactment of this clause, the Secretary shall—

“(I) assign an allocation for beet sugar to the new entrant that is not less than the greater of 1.67 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years as determined under subsection (b)(2)(C), or 1,500,000 hundredweights; and

“(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the new allocation.

“(I) NEW ENTRANTS ACQUIRING ONGOING FACTORIES WITH PRODUCTION HISTORY.—If a new entrant acquires a factory that has production history during the period of the 1998 through 2000 crop years and that is producing beet sugar at the time the allocations are made from a processor that has an allocation of beet sugar, the Secretary shall transfer a portion of the allocation of the seller to the new entrant to reflect the historical contribution of the production of the sold factory to the total allocation of the seller.

“SEC. 359e. REASSIGNMENT OF DEFICITS.

7 USC 1359ee.

“(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

“(b) REASSIGNMENT OF DEFICITS.—

“(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor’s allocation of the State’s allotment for the crop year—

“(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

“(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors;

“(C) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

“(D) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

“(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

“(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

“(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

“(C) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

“(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a crop year shall be increased to reflect the reassignment.

7 USC 1359ff.

“SEC. 359f. PROVISIONS APPLICABLE TO PRODUCERS.

“(a) PROCESSOR ASSURANCES.—

“(1) IN GENERAL.—If allotments for a crop year are allocated to processors under section 359d, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers’ production histories.

“(2) ARBITRATION.—

“(A) IN GENERAL.—Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the allocation to the processor shall be resolved through arbitration by the Secretary on the request of either party.

Deadlines.

“(B) PERIOD.—The arbitration shall, to the maximum extent practicable, be—

“(i) commenced not more than 45 days after the request; and

“(ii) completed not more than 60 days after the request.

“(b) SUGAR BEET PROCESSING FACILITY CLOSURES.—

“(1) IN GENERAL.—If a sugar beet processing facility is closed and the sugar beet growers that previously delivered beets to the facility elect to deliver their beets to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

“(2) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver their sugar beets, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

“(3) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

Deadline.

“(4) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

“(c) PROPORTIONATE SHARES OF CERTAIN ALLOTMENTS.—

“(1) IN GENERAL.—

“(A) STATES AFFECTED.—In any case in which a State allotment is established under section 359c(f) and there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

“(B) DETERMINATION.—The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of

proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.

“(2) ESTABLISHMENT OF PROPORTIONATE SHARES.—If the Secretary determines under paragraph (1) that the quantity of sugarcane produced by producers in the area covered by a State allotment for a crop year will be in excess of the quantity needed to enable processors to fill the allotment for the crop year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the crop year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (7) and section 359c(g).

“(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

“(A) The Secretary shall establish the State’s per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the 2 highest years from among the 1999, 2000, and 2001 crop years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

“(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

“(C) The Secretary shall convert the State allotment for the crop year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

“(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

“(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm’s proportionate share of sugarcane acreage that may be harvested for sugar or seed.

“(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

“(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.

“(5) 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 359h(a).

“(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 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.

“(6) WAIVER.—Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) 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.

“(7) 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 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.

“(8) PROCESSING FACILITY CLOSURES.—

“(A) IN GENERAL.—If a sugarcane processing facility subject to this subsection is closed and the sugarcane growers that delivered sugarcane to the facility prior to closure elect to deliver their sugarcane to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

“(B) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver the sugarcane, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

“(C) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

“(D) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

Deadline.

“SEC. 359g. SPECIAL RULES.

7 USC 1359gg.

“(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), 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.

“(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 359f(c), 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 359d, or any proportionate share established or adjusted for a farm under section 359f(c), 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 crop-share owners (or the representative of the crop-share owners) of a farm, and from the processing company holding the applicable allocation for such shares, 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 359d, 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 the product of—

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

“(B) the State’s per acre yield goal established under section 359f(c)(3).

7 USC 1359hh.

“SEC. 359h. 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 part.

“(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 part 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 part 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 part. The Secretary may elect not to refer to a United States attorney any violation of this part or regulation when the Secretary determines that the administration and enforcement of this part 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 part shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

7 USC 1359ii.

“SEC. 359i. APPEALS.

“(a) IN GENERAL.—An appeal may be taken to the Secretary from any decision under section 359d establishing allocations of marketing allotments, or under section 359f, 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, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

“(c) SPECIAL APPEAL PROCESS REGARDING BEET SUGAR ALLOCATIONS.—

“(1) APPEAL AUTHORIZED.—Beginning after the 2006 crop year, a processor that has an allocation of the beet sugar allotment under this part (referred to in this subsection as a ‘petitioner’) may file a notice of appeal with the Secretary regarding the petitioner’s beet sugar allocation. Except as provided in paragraph (2), the Secretary shall consider the appeal if the notice alleges that any processor that has a beet sugar allocation has failed to fill at least 82.5 percent of its allocation of the beet sugar allotment with sugar produced by it or received from the Commodity Credit Corporation in 2 out of the 3 crop years preceding the crop year in which the appeal is filed. A processor that is alleged to have failed to fill at least 82.5 percent of its allocation shall be allowed to fully participate in the appeal.

“(2) EXCEPTIONS.—An appeal under paragraph (1) shall not be based on the failure of a processor to fill at least 82.5 percent of its allocation because of drought, flood, hail, or other weather disaster, as determined by the Secretary. The determination by the Secretary shall not require a formal disaster declaration.

“(3) RESPONSE TO APPEAL.—Upon the petitioner making an appeal to the Secretary, and upon a review by the Secretary of how processors have filled their allocations, the Secretary may—

“(A) assign an increased allocation for beet sugar to the petitioner that provides a fair and equitable distribution of the allocations for beet sugar, taking into account—

“(i) production history during the period beginning on April 4, 1996, and through the date of enactment of the Farm Security and Rural Investment Act of 2002;

“(ii) capital investment during that period;

“(iii) increases in United States sugar consumption; and

“(iv) the ability or inability of processors to fill the allocations they have received under this part; and

“(B) reduce, correspondingly, the allocation for beet sugar of each processor determined to have failed to fill at least 82.5 percent of its allocation of the beet sugar allotment as described in paragraph (1).

“(4) FILING DEADLINE.—For purposes of the filing deadline specified in subsection (b)(1), the 20-day period shall commence on the date on which the Secretary announces the allocations for the subsequent crop year or October 1, whichever is earlier.

“SEC. 359j. ADMINISTRATION.

7 USC 1359jj.

“(a) USE OF CERTAIN AGENCIES.—In carrying out this part, 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 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), 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 part.

7 USC 1359kk.

“**SEC. 359k. REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS.**

“(a) IN GENERAL.—Notwithstanding any other provision of law, on or after June 1 of each of the 2002 through 2007 calendar years, the United States Trade Representative, in consultation with the Secretary, shall determine the amount of the quota of cane sugar used by each qualified supplying country for that crop year, and may reallocate the unused quota for that crop year among qualified supplying countries.

“(b) QUALIFIED SUPPLYING COUNTRY DEFINED.—In this section, the term ‘qualified supplying country’ means one of the following foreign countries that is allowed to export cane sugar to the United States under an agreement or any other country with which the United States has an agreement relating to the importation of cane sugar:

- Argentina
- Australia
- Barbados
- Belize
- Bolivia
- Brazil
- Colombia
- Republic of the Congo
- Costa Rica
- Dominican Republic
- Ecuador
- El Salvador
- Fiji
- Gabon
- Guatemala
- Guyana
- Haiti
- Honduras
- India
- Cote D'Ivoire, formerly known as the Ivory Coast
- Jamaica
- Madagascar
- Malawi
- Mauritius
- Mexico
- Mozambique
- Nicaragua
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- St. Kitts and Nevis
- South Africa
- Swaziland
- Taiwan
- Thailand
- Trinidad-Tobago
- Uruguay
- Zimbabwe.”.