Public Law 97-218
97th Congress

An Act

To provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

July 20, 1982
[H.R. 6590]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

No Net Cost Tobacco Program Act of 1982.

SHORT TITLE

SECTION 1. This Act may be cited as the "No Net Cost Tobacco Program Act of 1982".

7 USC 1281 note.

FINDINGS

SEC. 2. Congress finds that—

7 USC 1445-1 note.

(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

7 USC 1281 note.

(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price support advances are made available to producers; and

(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.

TITLE I—MODIFICATION OF TOBACCO PRICE SUPPORT PROGRAM

PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

SEC. 101. Effective for the 1982 and subsequent crops of tobacco, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting, following section 106, a new section 106A as follows:

"PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

"SEC. 106A. (a) As used in the section—

Definitions.
7 USC 1445-1.

"(1) the term 'association' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

"(2) the term 'Corporation' means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

"(3) the term 'Fund' means the capital account to be established within each association, which account shall be known as the 'No Net Cost Tobacco Fund';

"(4) the term 'to market' means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

"(5) the term 'net gains' means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges; and

"(6) the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

Loan advances.

"(b) The Secretary may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

Fund, establishment.

"(c) Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members as provided in subsection (d).

Price support eligibility.

"(d) The Secretary shall—

"(1) require—

"(A) that—

"(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco (other than Burley quota tobacco with respect to the 1983 and subsequent crops) shall agree, with respect to all such kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

"(ii) as a condition of eligibility for price support for any marketing year of any three-year period for which marketing quotas are in effect (other than the period applicable to the 1982 crop), each producer of Burley quota tobacco shall agree, not later than a date established by the Secretary preceding the beginning of the first marketing year of such three-year period (or, in the case of a producer of Burley quota tobacco on a new farm or a producer of Burley quota tobacco succeeding another producer on a farm, before the beginning of the marketing year in which such new producer or such successor producer will first market Burley quota tobacco from the farm involved), to contribute in each of the marketing years in such three-year period (or, in the case of such new producer or such successor producer, any remaining marketing year in such three-year period), with respect to all Burley quota tobacco

marketed by the producer, to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

"(B) that, upon making a contribution under subparagraph (A)—

"(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution; and

Capital stock or capital certificate.

"(ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of the Internal Revenue Code, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

26 USC 1388.

The Secretary shall approve the amount of the contributions determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

"(2) effective for the 1983 and subsequent crops, require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to make contributions, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

Acreage allotment and marketing quota leases.
7 USC 1311.

Capital stock or capital certificate.

"(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead

costs of the association), after any net gains are applied to net losses of the corporation under paragraph (5);

"(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, and require that the interest or other earnings on such investment shall become a part of the Fund;

"(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

Capital or net gain distribution.

"(6) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley quota tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

Agreement, termination.

"(e) If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act.

15 USC 714 note.

"(f) If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

Regulations.

"(g) The Secretary shall issue regulations necessary to carry out the provisions of this section.".

ADJUSTMENT OF PRICE SUPPORT LEVEL OF TOBACCO

SEC. 102. Effective for the 1982 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end thereof new subsection (d) as follows:

"(d) Notwithstanding the provisions of section 403, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: *Provided,* That the weighted average of the support rates for all eligible grades of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher then the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.". 7 USC 1423.

PENALTIES FOR MARKETING TOBACCO IN EXCESS OF MARKETING QUOTA AND FOR MARKETING CERTAIN TOBACCO THAT IS NOT ELIGIBLE FOR PRICE SUPPORT

SEC. 103. Effective for the 1983 and subsequent crops of tobacco, section 314 of the Agricultural Adjustment Act of 1938 is amended by amending the first sentence of subsection (a) to read as follows: "The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account as required by sections 106A(d)(1) and 106(B)(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.". 7 USC 1314. 7 USC 1421 note. *Ante,* p. 197.

TITLE II—MODIFICATION OF FLUE-CURED TOBACCO MARKETING QUOTA SYSTEM

LEASE AND SALE OF FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 201. (a) Section 316(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)) is amended by—

(1) inserting "(1)" after "(a)";

(2) inserting "shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act and" after "program,";

(3) inserting "Flue-cured," after "Burley,";

(4) inserting a comma before "to lease";

(5) adding at the end thereof the following new paragraph:

"(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

"(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

"(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

"(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

Lease or transfer, filing with county committee.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such county to be in compliance with the provisions of this section.

"(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

"(i) between the lessor and lessee; or

"(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

"(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease."; and

(6) amending the section heading for such section to read as follows:

"LEASE OR SALE OF ACREAGE ALLOTMENTS".

(b) Section 316(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(c)) is amended by—

(1) in the first sentence—

(A) inserting "or sale and transfer" after "lease and transfer"; and

(B) striking out "such lease" and inserting in lieu thereof "the lease or sale agreement, as the case may be,";

Lease or transfer, filing with county committee.

(2) striking out the second sentence and inserting in lieu thereof the following: "In the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with such county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing,

such county committee determines that such lessee knowingly made a false statement in such written statement, then such lessee shall be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if such determination is made after such lessee received such price support, the Secretary, taking into consideration the recommendation of such county committee and the amount of such poundage, shall reduce appropriately the poundage for which such lessee may receive price support with respect to the crop first marketed after such determination is made. If, after notice and an opportunity for a hearing, such county committee determines that such lessor knowingly made a false statement in such written statement, then the Flue-cured allotment or quota next established for the farm of such lessor shall be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Notice of any determination made by a county committee under the preceding provisions shall be mailed, as soon as practicable, to the lessee or the lessor involved. If such lessee or such lessor is dissatisfied with such determination, then such lessee or such lessor may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act."; and

7 USC 1421 note.

Review.

7 USC 1363.

(3) in the third sentence (as in effect before the amendment made by paragraph (2)) by—

(A) inserting "by lease or sale" after "transferred"; and

(B) striking out "lease and".

(c) Section 316(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(e)) is amended by—

(1) inserting "(1)" after "(e)";

(2) inserting "or sale" after "lease";

(3) inserting "or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm" before the colon; and

(4) adding at the end thereof the following new paragraph:

"(2) For purposes of this section, the term 'tillable cropland' means cleared land that can be planted to crops without unusual cultivation or other preparation.".

"Tillable cropland."

(d) Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by striking out subsections (g), (h), and (i) and inserting in lieu thereof the following new subsections:

"(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all or any part of such allotment or quota to any person who is or intends to become an active Flue-cured tobacco producer. For purposes of this section, the term 'active Flue-cured tobacco producer' means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved, or any person who certifies to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, his or her intent to become a Flue-cured tobacco producer.

Allotment or quota, sale.

"Active Flue-cured tobacco producer."

"(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

"(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

"(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

"(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.

"(h)(1) Any person who—

"(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

"(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

"(2) Any person who—

"(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

"(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

Noncompliance, penalty.

"(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

Review.

"(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.".

7 USC 1363.

MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT

SEC. 202. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by inserting after section 316, a new section 316A, as follows:

"MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

"SEC. 316A. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of this section— 7 USC 1314b-1.

"(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this Act; and

"(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, 1983, or December 1 of the year after the year in which the farm is acquired, whichever is later, or shall forfeit such allotment or quota under the procedure specified in subsection (c). *Ante*, p. 203.

"(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on or after December 1, 1983, owns a farm for which the total acreage alloted for the production of Flue-cured tobacco under this Act exceeds 50 per centum of such farm's tillable cropland, as defined in section 316(e)(2) of this Act, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c). In the case of any person who acquires a farm after December 1, 1983, the acreage allotment or marketing quota representing the excess shall not be subject to forfeiture until July 1 of the year after the year of acquisition. *Ante*, p. 203.

"(c)(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of this Act. Noncompliance, penalty. *Ante*, p. 203.

"(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 363 of this Act.". Review. 7 USC 1363.

PERIODIC ADJUSTMENT OF YIELD FACTOR FOR FLUE-CURED ACREAGE-POUNDAGE QUOTAS

SEC. 203. Section 317(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by—

(1) adding at the end of paragraph (2) the following: "Notwithstanding the preceding sentence, in 1983, and at five-year intervals thereafter, the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield.";

(2) adding at the end of paragraph (4) the following: "Notwithstanding the preceding provisions of this subsection, in 1983, and at five-year intervals thereafter, farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary may deem appropriate."; and

(3) adding at the end of paragraph (6)(A) the following: "Notwithstanding the preceding provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.".

EXEMPTION OF CERTAIN NONQUOTA TOBACCO FROM QUOTA RESTRICTIONS

SEC. 204. Section 320(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314f(b)) is amended by—

(1) striking out in paragraph (3) "and" at the end thereof;

(2) striking out in paragraph (4) the period at the end thereof and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(5) tobacco when it is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres. Notwithstanding the provisions of section 312(c) of this Act, producers of such nonquota tobacco shall not be eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary under such section after the effective date of this paragraph.".

7 USC 1312.

CONFORMING AMENDMENTS

SEC. 205. (a) The fifth sentence of section 317(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(f)) is amended by inserting "and sold" after "leased".

(b) Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is amended by—

(1) striking out "lease and" each place it appears;

(2) striking out "lessee" each place it appears and inserting in lieu thereof "transferee";

(3) striking out "lessor" each place it appears and inserting in lieu thereof "transferor"; and

(4) striking out "leased" each place it appears and inserting in lieu thereof "transferred".

LIEN FOR PAYMENT OF PENALTY; FALSE IDENTIFICATION OF TOBACCO

SEC. 206. (a) Section 314 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314) is amended by adding a new subsection as follows:

"(c) Until the amount of the penalty provided by this section is paid, a lien on the tobacco with respect to which such penalty is incurred, and on any subsequent tobacco subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States for the amount of the penalty.".

(b) Section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by adding a new subsection as follows:

"(j) Notwithstanding any other provision of this section, if a producer falsely identifies tobacco as having been produced on or marketed from a farm, the quantity of tobacco so falsely identified shall be considered for purposes of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced and the farm of actual production, if known, or, as the case may be, shall be considered as actually marketed from the farm.".

EFFECTIVE DATE

SEC. 207. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act. 7 USC 1314b note.

(b) The amendments made by this title shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before the date of the enactment of this Act.

TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY TOBACCO AND OTHER KINDS OF TOBACCO

MARKETING ASSESSMENTS TO NO NET COST TOBACCO ACCOUNT

SEC. 301. Effective for the 1982 and subsequent crops of all kinds of tobacco except Flue-cured tobacco, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting, following section 106A (as added by section 101 of this Act), a new section 106B as follows: *Ante*, p. 197.

"MARKETING ASSESSMENTS TO NO NET COST TOBACCO ACCOUNT

"SEC. 106B. (a) As used in this section— Definitions. 7 USC 1445-2.

"(1) the term 'association' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco, except that the term does not include such an association that has entered into such an agreement to make price support available to producers of Flue-cured tobacco;

"(2) the term 'Account' means an account established by and in the Corporation for an association, which account shall be known as the 'No Net Cost Tobacco Account';

"(3) the term 'to market' means to dispose of tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

"(4) the term 'net gains' means the amount by which total proceeds obtained from the sale by an association of a crop of a kind of tobacco pledged to the Corporation for price support

loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges;

"(5) the term 'tobacco' means any kind of tobacco except Flue-cured tobacco, as defined in section 301(b)(15) of the Agricultural Adjustment Act of 1938, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

"(6) the term 'area', when used in connection with an association, means the general geographical area in which farms of the producer-members of such association are located, as determined by the Secretary; and

"(7) the term 'Corporation' shall have the meaning given to it in section 106A(a)(2).

Ante, p. 197.

"(b) Notwithstanding section 106A, the Secretary shall, upon the request of any association, and may, if the Secretary determines, after consultation with such association, that the accumulation of the No Net Cost Tobacco Fund for such association under section 106A is, and is likely to remain, inadequate to reimburse the Corporation for net losses which the Corporation sustains under its loan agreement with such association—

"(1) continue to make price support available to producers through such association in accordance with loan agreements entered into between the Corporation and such association; and

No Net Cost Tobacco Account. Establishment.

"(2) establish and maintain in accordance with this section a No Net Cost Tobacco Account for such association in lieu of the No Net Cost Tobacco Fund established within such association under section 106A.

"(c)(1) Any Account established for an association under subsection (b)(2) shall be established within the Corporation and shall be comprised of amounts paid by producers under subsection (d).

"(2) Upon the establishment of an Account for an association, any amount in the No Net Cost Tobacco Fund established within such association under section 106A shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in such section.

"(d)(1) If an Account is established for an association under subsection (b)(2), then the Secretary shall require (in lieu of any requirement under section 106A(d)(1)) that each producer of the kind of tobacco involved whose farm is within such association's area shall, as a condition of eligibility for price support, agree, with respect to all of such kind of tobacco marketed by the producer from the farm, to pay to the Corporation, for deposit in such association's Account, marketing assessments as determined under paragraph (2) and collected under paragraph (3).

"(2) For purposes of paragraph (1), the Secretary shall determine and adjust from time to time, in consultation with such association, the amount of the marketing assessment which shall be imposed, as a condition of eligibility for price support, on each pound of the kind of tobacco involved marketed by a producer from a farm within such association's area. Such amount shall be equal to an amount which, when collected, will result in an accumulation of an Account for such association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such association, based on reasonable estimates of the amounts which the Corporation will lend to such association under such

agreements and the proceeds which will be realized from the sales of the kind of tobacco involved which are pledged to the Corporation by such association as security for loans.

"(3)(A) Except as provided in subparagraph (B), any marketing assessment to be paid by a producer under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer but an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such tobacco is marketed by sale.

"(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or other agent, then such assessment shall be collected from such warehouseman or agent who may deduct an amount equal to such assessment from the price paid to the producer. If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, such assessment shall be collected from the producer.

"(e) Amounts deposited in an Account established for an association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such association will suffer, with respect to the crop involved, no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation pursuant to subsection (h).

"(f) The Secretary shall provide, in any loan agreement between the Corporation and an association for which an Account has been established under subsection (b)(2), that if the Secretary determines that the amount in such Account or the net gains referred to in subsection (h) exceed the amounts necessary for the purposes of this section, then the Secretary, in consultation with such association, may suspend the payment and collection of marketing assessments under this section upon terms and conditions established by the Secretary.

"(g) With respect to any association for which an Account is established under subsection (b)(2), if a loan agreement between the Corporation and such association is terminated, if such association is dissolved or merges with another association that has entered into a loan agreement with the Corporation to make price support available to producers of the kind of tobacco involved, or if such Account terminates by operation of law, then amounts in such Account and the net gains referred to in subsection (h) shall be applied to or disposed of in such manner as the Secretary may prescribe, except that they shall, to the extent necessary, first be applied to or used for the purposes therefor prescribed in this section.

"(h) The provisions of section 106A(d)(5) relating to net gains shall apply to any loan agreement between an association and the Corporation entered into upon or after the establishment of an Account for such association under subsection (b)(2). *Ante*, p. 197.

"(i) The Secretary shall issue regulations necessary to carry out the provisions of this section.". Regulations.

MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT

SEC. 302. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding after section 316A (as added by section 202 of this Act), a new section 316B, as follows:

Ante, p. 205.

"MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

7 USC 1314b-2.

"SEC. 316B. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of this section—

"(1) owns a farm for which a Burley tobacco marketing quota is established under this Act; and

"(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell, not later than December 1, 1983, or December 1 of the year after the year in which the farm is acquired, whichever is later, such quota to an active Burley tobacco producer or any person who intends to become an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such quota under the procedure specified in subsection (b).

Noncompliance, penalty.

"(b)(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with such subsection, then the quota specified in such subsection shall be forfeited and shall be reallocated by such county committee to other active Burley tobacco producers or those intending to become active Burley tobacco producers as defined by the Secretary, for use in such county.

Review.

"(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

7 USC 1363.

"(c)(1) Any person who—

"(A) acquires any Burley tobacco marketing quota by purchase under subsection (a) of this section; and

"(B) with respect to any crop of Burley tobacco planted after the date of such acquisition, fails for the five-year period immediately subsequent to the year of such acquisition to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

"(2) For purposes of this subsection, a person shall be considered to have shared in the risk of producing a crop of Burley tobacco if—

"(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

"(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

"(C) such person may not receive any of such return before the sale of such crop.

"(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with this subsection, then the quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

"(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.". Review. 7 USC 1363.

POUNDAGE QUOTAS FOR DARK AIR-CURED TOBACCO AND FOR FIRE-CURED TOBACCO; MODIFICATION OF LEASING OF POUNDAGE QUOTAS FOR BURLEY TOBACCO

SEC. 303. (a) Section 301(b)(15) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(15)) is amended by striking out the period at the end thereof and inserting in lieu thereof ": *And provided further,* That for purposes of section 319 of this title, types 22 and 23, fire-cured tobacco shall be treated as one 'kind of tobacco'.". 7 USC 1314e.

(b) Section 319(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(b)) is amended by—

(1) in the first sentence, inserting "for burley tobacco" after "in effect";

(2) in the second sentence—

(A) inserting "for burley tobacco" after "basis"; and

(B) inserting "for burley tobacco" after "in effect";

(3) in the fourth sentence, striking out "such kind of" and inserting in lieu thereof "burley";

(4) in the proviso to the fifth sentence, inserting "for burley tobacco" after "determined"; and

(5) striking out the subsection designation "(b)".

(c) Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by inserting before subsection (c) the following new subsection:

"(b) Notwithstanding any other provision of law, the Secretary shall, not later than February 1, 1983, proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23 (hereinafter in this section referred to as 'fire-cured tobacco') for the three marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983, as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1982 crop of each of such kinds of tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the three marketing years beginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the two marketing years beginning Referendum.

Effective date.

October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in such referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas as provided in this section shall be in effect for such kind of tobacco for the three marketing years beginning October 1, 1983, and marketing quotas on an acreage basis shall cease to be in effect for such kind of tobacco for the two marketing years beginning on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in such referendum, then quotas on an acreage basis shall be in effect for such kind of tobacco for the two marketing years beginning October 1, 1983.

"If marketing quotas on an acreage basis are in effect for any such kind of tobacco, if, for a period of not less than three marketing years, a referendum has not been held under this section to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, then the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years under this section. Within thirty days of such proclamation, the Secretary shall conduct a referendum of farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the next three succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis under this section, then quotas on that basis shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under this Act.

Referendum.

"The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for any such kind of tobacco under this section, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco under this section, then the Secretary shall, not later than February 1 of the last of three consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of tobacco for the next three succeeding marketing years as provided in this section. The Secretary shall conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accord-

Hearings.

ance with section 312(c) of the Act. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next three succeeding marketing years. Thereafter the provisions of section 312 of the Act shall apply: *Provided,* That the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in this section.". 7 USC 1312.

(d) Section 319(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)) is amended by—

(1) in the first sentence—

(A) striking out "burley tobacco" and inserting in lieu thereof "any kind of tobacco for which poundage quotas may be established"; and

(B) inserting "of such kind of tobacco" after "amount" the first place it appears;

(2) in the second sentence, striking out "Any" and inserting in lieu thereof "With respect to burley tobacco, any"; and

(3) in the third sentence—

(A) inserting "for a kind of tobacco" after "in effect";

(B) inserting "with respect to such kind of tobacco" after "reserve" the first place it appears;

(C) inserting "for such kind of tobacco" after "quota" the first place it appears; and

(D) striking out "per centum of the" and inserting in lieu thereof "per centum of such".

(e) Section 319(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(d)) is amended by—

(1) in the first sentence—

(A) inserting "for a kind of tobacco" after "proclaimed";

(B) striking out "a burley tobacco acreage allotment" and inserting in lieu thereof "an acreage allotment for such kind of tobacco"; and

(C) inserting ", in the case of burley tobacco, and October 1, 1982, in the case of dark air-cured tobacco and fire-cured tobacco" after "1970"; and

(2) in the second sentence—

(A) inserting ", in the case of burley tobacco, and the 1978 crop year, in the case of dark air-cured tobacco and fire-cured tobacco" after "crop year";

(B) striking out "burley tobacco" the first place it appears and inserting in lieu thereof "the kind of tobacco involved";

(C) striking out "burley tobacco" in each of the second, third, fourth, and fifth places it appears and inserting in lieu thereof "such kind of tobacco"; and

(D) striking out the period at the end thereof and inserting in lieu thereof ", in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco: *And provided further,* That, when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under this section, farm yields so determined with respect to dark air-cured tobacco or fire-cured tobacco, as the case may be, shall be adjusted proportionately so that the weighted average of such farm yields is equal to the national average

yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.".

(f) Section 319(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(e)) is amended by—

(1) inserting after the first sentence the following: "A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) established for such farm for the marketing year beginning October 1, 1982.";

(2) in the third sentence (as in effect before the amendment made by paragraph (1)), striking out "burley tobacco marketing quotas" and inserting in lieu thereof "marketing quotas for the kind of tobacco involved"; and

(3) in the sixth sentence (as in effect before the amendment made by paragraph (1))—

(A) striking out "burley tobacco experience of the farm operator" and inserting in lieu thereof "experience of the farm operator with respect to the kind of tobacco involved"; and

(B) striking out "production of burley tobacco" each place it appears and inserting in lieu thereof "production of such kind of tobacco".

(g) The first sentence of section 319(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(f)) is amended by—

(1) inserting "for any kind of tobacco" after "in effect"; and

(2) striking out "burley tobacco" and inserting in lieu thereof "such kind of tobacco".

(h) Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by—

(1) inserting "for any kind of tobacco" after "in effect";

(2) striking out "burley tobacco" and inserting in lieu thereof "such kind of tobacco"; and

(3) in the third proviso—

(A) striking out "fifteen thousand pounds" and inserting in lieu thereof "thirty thousand pounds"; and

(B) inserting "with respect to burley tobacco" after "section".

(i) Section 319(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(i)) is amended by—

(1) in the proviso to paragraph (1), striking out "burley tobacco" and inserting in lieu thereof "the kind of tobacco involved"; and

(2) in paragraph (3), inserting "with respect to burley tobacco" after "in effect".

7 USC 1314e.

(j) The section heading for section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1313e) is amended to read as follows:

"FARM POUNDAGE QUOTAS FOR CERTAIN KINDS OF TOBACCO".

CONFIDENTIAL DATA

7 USC 1373.

SEC. 304. Section 373(c) of the Agricultural Adjustment Act of 1938 is amended by adding at the end thereof the following new sentence: "Nothing in this section shall be deemed to prohibit the issuance of

general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.".

LONG-TERM GRAIN SALES AGREEMENT

SEC. 305. (a) The Congress finds that—

(1) talks to extend the long-term grain sales agreement between the Soviet Union and the United States were broken off in 1981 with no date set for resumption of these talks;

(2) the Government of the Soviet Union for all practical purposes has ceased to purchase United States agricultural commodities since the breaking off of negotiations;

(3) the lack of a long-term grain sales agreement may result in market instability, with the potential of disrupting the feed-livestock relationship in the United States;

(4) the lack of such an agreement may result in uncertainty among farmers as to the best planting decisions for the upcoming crop year;

(5) the lack of such an agreement has already led the Soviet Union to seek other sources of supplies at the expense of the American farmer; and

(6) the lack of such an agreement means a drop in the export of agricultural commodities and continued severe difficulties with the balance of trade deficit of the United States.

(b) It is the sense of the Congress that the President should immediately resume negotiations with the Government of the Soviet Union for the purpose of reaching an agreement to extend the duration of the existing long-term grain sales agreement and to require the purchase by the Government of the Soviet Union of a minimum amount of grain annually at a level not less than the level required by the existing long-term grain sales agreement.

LIMITATION ON THE SALE OF TOBACCO FLOOR SWEEPINGS

SEC. 306. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding immediately after section 314 thereof the following new section:

"SEC. 314A. (a) Effective for the 1982 and subsequent crops of tobacco, the marketing of floor sweepings of any kind of tobacco in excess of allowable floor sweepings shall be subject to a civil penalty of 150 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by any person found by the Secretary to have marketed such floor sweepings in excess of the allowable amount. Penalties. 7 USC 1314-1.

"(b) The penalty provided for in subsection (a) shall be assessed by the Secretary only after the person alleged to have marketed floor sweepings in excess of allowable floor sweepings has been given notice and an opportunity for hearing and the Secretary has determined by decision incorporating the Secretary's findings of fact that a violation did occur and the amount of the penalty.

"(c) The provisions of section 376 of this title shall apply to penalties under this section. 7 USC 1376.

"(d) As used in this section— Definitions.

"(1) the term 'floor sweepings' means the scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business; and

"(2) the term 'allowable floor sweepings' means the quantity of floor sweepings determined by multiplying 0.24 per centum times the total first sales of tobacco at auction for the season for the warehouse involved.".

TITLE IV—THE AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEE SYSTEM

16 USC 590h note.

SEC. 401. Congress finds that agricultural stabilization and conservation county and community committees have served, and should continue to serve, a vital function in implementing, at the local level, farm commodity, soil conservation, and related programs; and that, by assisting the United States Department of Agriculture to conduct such programs effectively, such committees provide substantial benefits to agriculture and the Nation. Congress further finds that the agricultural stabilization and conservation county and community committee system has developed, over the years, into a highly efficient mechanism for implementing such programs at the local level. Therefore, it is the sense of Congress that the Secretary of Agriculture should ensure that the structure and operations of the agricultural stabilization and conservation county and community committees, as heretofore developed to enable such committees to meet the responsibilities assigned them under section 8(b) of the Soil Conservation and Domestic Allotment Act, and related statutes and regulations, be preserved and strengthened.

16 USC 590h.

Approved July 20, 1982.

LEGISLATIVE HISTORY—H.R. 6590:

HOUSE REPORT No. 97-613 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 128 (1982):
June 21, considered and passed House.
July 14, considered and passed Senate, amended.
July 15, House concurred in Senate amendments.