SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1038, 1039 of this title.

§ 1038. Regulations; delegations of authority

The Secretary may make such rules and regulations and such delegations of authority as he may deem necessary to carry out the provisions of sections 1033 to 1039 of this title.

(Sept. 6, 1950, ch. 897, § 6, 64 Stat. 770.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037, 1039 of this title.

§ 1039. Time for filing purchase applications

No application for the purchase of mineral interests under sections 1033 to 1039 of this title shall be filed until ninety days after September 6, 1950.

(Sept. 6, 1950, ch. 897, § 7, 64 Stat. 770.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037, 1038 of this title.

§ 1040. Farmers' Home Administration funds account

When authorized by appropriation or other law, funds of the Farmers' Home Administration available for administrative expenses may be placed in a single account.

(Aug. 3, 1956, ch. 950, § 9(b), 70 Stat. 1034.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Organic Act of 1956, and not as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

CHAPTER 34—SUGAR PRODUCTION AND CONTROL

§ 1100. Omitted

CODIFICATION

Section, act Aug. 8, 1947, ch. 519, § 1, 61 Stat. 922, provided that this chapter may be cited as the Sugar Act of 1948, and expired on Dec. 31, 1974.

A prior section, act Sept. 1, 1937, ch. 898, § 1, 50 Stat. 903, provided that this chapter may be cited as the Sugar Act of 1937, and expired on Dec. 31, 1947.

TERMINATION DATE

Section 412, formerly § 411, of act Aug. 8, 1947, ch. 519, 61 Stat. 933, as amended by act Sept. 1, 1951, ch. 379, § 5, 65 Stat. 320; renumbered § 412 and amended by act May 29, 1956, ch. 342, §§ 17, 18, 70 Stat. 221; July 6, 1960, Pub. L. 86–592, § 1, 74 Stat. 330; Mar. 31, 1961, Pub. L. 87–15, § 1, 75 Stat. 40; July 13, 1962, Pub. L. 87–535, § 16, 76 Stat. 166; Nov. 8, 1965, Pub. L. 89–331, § 12(5), 79 Stat. 1280; Oct. 14, 1971, Pub. L. 92–138, § 18(a), 85 Stat. 390; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095, provided that: "The powers vested in the Secretary under this Act [this chapter] shall terminate on December 31, 1974, or on March 31 of the year of termination of the tax imposed by section 4501(a) of the Internal Revenue Code of 1986 [formerly IRC 1954] [section 4501(a) of Title 26] whichever is the earlier date, except that the Secretary shall have power to make payments under title III [subchapter III of this chapter]—

"(1) under programs applicable to the crop year 1974 and previous crop years, if the powers vested in the Secretary otherwise terminate on December 31, 1974, or

"(2) under programs applicable to the crop years preceding the calendar year in which the tax imposed under section 4501(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] terminates, if the powers vested in the Secretary otherwise terminate before December 31, 1974."

SUBCHAPTER I—DEFINITIONS

§ 1101. Omitted

CODIFICATION

Section, acts Aug. 8, 1947, ch. 519, title I, § 101, 61 Stat. 922; May 29, 1956, ch. 342, §§ 1–4, 70 Stat. 217; June 25, 1959, Pub. L. 86–70, § 4, 73 Stat. 141; July 6, 1960, Pub. L. 86–592, § 4, 74 Stat. 331; Oct. 14, 1971, Pub. L. 92–138, § 2, 85 Stat. 379, related to definitions and expired on Dec. 31, 1974.

A prior section, act Sept. 1, 1937, ch. 898, title I, § 101, 50 Stat. 903, relating to similar subject matter, expired on Dec. 31, 1947.

SUBCHAPTER II—QUOTA PROVISIONS

§§ 1111 to 1122. Omitted

CODIFICATION

Section 1111, acts Aug. 8, 1947, ch. 519, title II, § 201, 61 Stat. 923; May 29, 1956, ch. 342, § 5, 70 Stat. 217; July 13, 1962, Pub. L. 87–535, § 2, 76 Stat. 156; Nov. 8, 1965, Pub. L. 89–331, § 2, 79 Stat. 1271; Oct. 14, 1971, Pub. L. 92–138, § 3, 85 Stat. 379, related to annual consumption estimate in the continental United States, the price of objective, and definitions of parity index and wholesale price index and expired on Dec. 31, 1974.

A prior section 1111, acts Sept. 1, 1938, ch. 898, title II, § 201, 50 Stat. 904; Oct. 10, 1940, ch. 839, § 2, 54 Stat. 1093, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1112, acts Aug. 8, 1947, ch. 519, title II, § 202, 61 Stat. 924; Sept. 1, 1951, ch. 379, § 1, 65 Stat. 318; May 29, 1956, ch. 342, §§ 6–8, 70 Stat. 217–219; July 13, 1962, Pub. L. 87–535, § 3, 76 Stat. 156; July 19, 1962, Pub. L. 87–539, § 2(a), (b), 76 Stat. 169; Nov. 8, 1965, Pub. L. 89–331, § 3, 79 Stat. 1271; Oct. 14, 1971, Pub. L. 92–138, § 4, 85 Stat. 380, related to establishment or revision of quotas and expired on Dec. 31, 1974.

A prior section 1112, act Sept. 1, 1937, ch. 898, title II, § 202, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1113, acts Aug. 8, 1947, ch. 519, title II, § 203, 61 Stat. 925; July 6, 1960, Pub. L. 86–592, § 4, 74 Stat. 331, related to consumption estimate in Hawaii and Puerto Rico and to quotas and expired on Dec. 31, 1974.

A prior section 1113, act Sept. 1, 1937, ch. 898, title II, § 203, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1114, acts Aug. 8, 1947, ch. 519, title II, § 204, 61 Stat. 925; Sept. 1, 1951, ch. 379, § 2, 65 Stat. 319; May 29, 1956, ch. 342, § 9, 70 Stat. 219; July 13, 1962, Pub. L. 87–535, § 4, 76 Stat. 160; July 19, 1962, Pub. L. 87–539, § 2(c), 76 Stat. 169; Nov. 8, 1965, Pub. L. 89–331, § 4, 79 Stat. 1275; Oct. 14, 1971, Pub. L. 92–138, § 5, 85 Stat. 383, related to revision of proration upon productive deficiency of quota area and expired on Dec. 31, 1974.

A prior section 1114, act Sept. 1, 1937, ch. 898, title II, § 204, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1115, acts Aug. 8, 1947, ch. 519, title II, § 205, 61 Stat. 926; May 29, 1956, ch. 342, § 10, 70 Stat. 219; Aug. 28, 1958, Pub. L. 85–791, § 28, 72 Stat. 950; July 6, 1960, Pub. L. 86–592, § 4, 74 Stat. 331; July 13. 1962, Pub. L. 87–535, § 5, 76 Stat. 160; Nov. 8, 1965, Pub. L. 89–331, § 5, 79 Stat. 1276; Oct. 14, 1971, Pub. L. 92–138, § 6, 85 Stat. 384, related to allotments of quotas or prorations and expired on Dec. 31, 1974.

A prior section 1115, act Sept. 1, 1937, ch. 898, title II, § 205, 50 Stat. 906, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1116, acts Aug. 8, 1947, ch. 519, title II, § 206, 61 Stat. 927; July 13, 1962, Pub. L. 87–535, § 6, 76 Stat. 161; Nov. 8, 1965, Pub. L. 89–331, § 6, 79 Stat. 1277; Oct. 14, 1971, Pub. L. 92–138, § 7, 85 Stat. 384, related to products and mixtures containing sugar and expired on Dec. 31, 1974.

A prior section 1116, act Sept. 1, 1937, ch. 898, title II, § 206, 50 Stat. 907, related to temporary sugar quotas until sugar quotas for calendar year 1937 could be established, which was to be within 60 days after enactment of section.

Section 1117, acts Aug. 8, 1947, ch. 519, title II, § 207, 61 Stat. 927; Sept. 1, 1951, ch. 379, § 3, 65 Stat. 319; May 29, 1956, ch. 342, §§ 11, 12, 70 Stat. 219, 220; July 13, 1962, Pub. L. 87–535, § 7, 76 Stat. 161; July 19, 1962, Pub. L. 87–539, § 2(d), 76 Stat. 170; Nov. 8, 1965, Pub. L. 89–331, § 7, 79 Stat. 1277; Oct. 14, 1971, Pub. L. 92–138, § 8, 85 Stat. 385, related to amount of quota to be filled by direct-consumption sugar and expired on Dec. 31, 1974.

A prior section 1117, acts Sept. 1, 1937, ch. 898, title II, § 207, 50 Stat. 908; Oct. 15, 1940, ch. 887, §§ 4, 5, 54 Stat. 1178, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1118, acts Aug. 8, 1947, ch. 519, title II, § 208, 61 Stat. 928; Sept. 1, 1951, ch. 379, § 4, 65 Stat. 319; July 13, 1962, Pub. L. 87–535, § 8, 76 Stat. 162, related to liquid sugar foreign quotas and expired on Dec. 31, 1974.

A prior section 1118, act Sept. 1, 1937, ch. 898, title II, § 208, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1119, acts Aug. 8, 1947, ch. 519, title II, § 209, 61 Stat. 928; July 6, 1960, Pub. L. 86–592, § 4, 74 Stat. 331; July 13, 1962, Pub. L. 87–535, § 9, 76 Stat. 162; Nov. 8, 1965, Pub. L. 89–331, § 8, 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92–138, § 9, 85 Stat. 386, related to prohibited acts and expired on Dec. 31, 1974.

A prior section 1119, act Sept. 1, 1937, ch. 898, title II, § 209, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1120, act Aug. 8, 1947, ch. 519, title II, § 210, 61 Stat. 928, related to terminology of determinations and expired on Dec. 31, 1974.

A prior section 1120, act Sept. 1, 1937, ch. 898, title II, § 210, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1121, acts Aug. 8, 1947, ch. 519, title II, § 211, 61 Stat. 928; July 13, 1962, Pub. L. 87–535, § 10, 76 Stat. 162; Oct. 14, 1971, Pub. L. 92–138, § 10, 85 Stat. 386, related to credit against quota and expired on Dec. 31, 1974.

A prior section 1121, act Sept. 1, 1937, ch. 898, title II, § 211, 50 Stat. 909, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1122, acts Aug. 8, 1947, ch. 519, title II, § 212, 61 Stat. 929; July 13, 1962, Pub. L. 87–535, § 11, 76 Stat. 163; Nov. 8, 1965, Pub. L. 89–331, § 9(a), 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92–138, § 11, 85 Stat. 386, related to exceptions to quota provisions and expired on Dec. 31, 1974.

A prior section 1122, act Sept. 1, 1937, ch. 898, title II, § 212, 50 Stat. 909, relating to similar subject matter, expired on Dec. 31, 1947.

§ 1123. Repealed. Pub. L. 89–331, § 10, Nov. 8, 1965, 79 Stat. 1278

Section, act Aug. 8, 1947, ch. 519, title II, § 213, as added July 13, 1962, Pub. L. 87–535, § 12, 76 Stat, 163; amended July 19, 1962, Pub. L. 87–539, § 2(e), 76 Stat. 170, made provision for import fees and set the amount and basis for such fees.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1965, pursuant to section 14 of Pub. L. 89–331.

SUBCHAPTER III—CONDITIONAL-PAYMENT PROVISIONS

§§ 1131 to 1137. Omitted

CODIFICATION

Section 1131, acts Aug. 8, 1947, ch. 519, title III, § 301, 61 Stat. 929; May 29, 1956, ch. 342, § 13, 70 Stat. 220; July 13, 1962, Pub. L. 87–535, § 13(a), 76 Stat. 163, related to conditions of production and expired on Dec. 31, 1974.

A prior section 1131, acts Sept. 1, 1937, ch. 898, title III, § 301, 50 Stat. 909; June 25, 1940, ch. 423, 54 Stat. 571; Dec. 26, 1941, ch. 638, § 2, 55 Stat. 872, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1132, acts Aug. 8, 1947, ch. 519, title III, § 302, 61 Stat. 930; May 29, 1956, ch. 342, § 14, 70 Stat. 220; July 13, 1962, Pub. L. 87–535, § 13(b), (c), 76 Stat. 163; Nov. 8, 1965, Pub. L. 89–331, § 11, 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92–138, § 12, 85 Stat. 386, related to quantity of sugar and time for payments and expired on Dec. 31, 1974.

A prior section 1132, act Sept. 1, 1937, ch. 898, title III, § 302, 50 Stat. 910, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1133, acts Aug. 8, 1947, ch. 519, title III, § 303, 61 Stat. 930; Oct. 14, 1971, Pub. L. 92–138, § 13, 85 Stat. 388, related to acreage abandonment and crop deficiency and expired on Dec. 31, 1974.

A prior section 1133, act Sept. 1, 1937, ch. 898, title III, § 303, 50 Stat. 911, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1134, act Aug. 8, 1947, ch. 519, title III, § 304, 61 Stat. 931, related to computation of payments and recipients thereof and expired on Dec. 31, 1974.

A prior section 1134, acts Sept. 1, 1937, ch. 898, title III, § 304, 50 Stat. 911; Dec. 26, 1941, ch. 638, § 3, 55 Stat. 873, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1135, act Aug. 8, 1947, ch. 519, title III, § 305, 61 Stat. 932, related to cooperation with Secretary by certain agencies and expired on Dec. 31, 1974.

A prior section 1135, act Sept. 1, 1937, ch. 898, title III, § 305, 50 Stat. 912, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1136, act Aug. 8, 1947, ch. 519, title III, § 306, 61 Stat. 932, related to finality of Secretary's determinations and expired on Dec. 31, 1974.

A prior section 1136, act Sept. 1, 1937, ch. 898, title III, § 306, 50 Stat. 912, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1137, acts Aug. 8, 1947, ch. 519, title III, § 307, 61 Stat. 932; July 6, 1960, Pub. L. 86–592, § 4, 74 Stat. 331; Oct. 14, 1971, Pub. L. 92–138, § 14, 85 Stat. 388, related to territorial application of former subchapter III and expired on Dec. 31, 1974.

A prior section 1137, acts Sept. 1, 1937, ch. 898, title III, § 307, 50 Stat. 912; Dec. 26, 1941, ch. 638, § 4(a), 55 Stat. 873, relating to similar subject matter, expired on Dec. 31, 1947.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§§ 1151 to 1161. Omitted

CODIFICATION

Section 1151, act Aug. 8, 1947, ch. 519, title IV, § 401, 61 Stat. 932, related to expenditures by Secretary and expired Dec. 31, 1974.

A prior section 1151, act Sept. 1, 1937, ch. 898, title IV, § 401, 50 Stat. 912, relating to definitions with respect to excise taxes on sugar, expired on Dec. 31, 1947.

Section 1152, act Aug. 8, 1947, ch. 519, title IV, § 402, 61 Stat. 932; Nov. 8, 1965, Pub. L. 89–331, § 12(1), 79 Stat. 1279, related to authorization of appropriations and to availability of funds and expired on Dec. 31, 1974.

A prior section 1152, act Sept. 1, 1937, ch. 898, title IV, § 402, 50 Stat. 913, relating to tax on the manufacture of sugar, expired on Dec. 31, 1947.

Section 1153, acts Aug. 8, 1947, ch. 519, title IV, § 403, 61 Stat. 932; Oct. 14, 1971, Pub. L. 92–138, § 15, 85 Stat. 388, related to rules and regulations, violations, publication of determinations, and independent weighmasters and expired on Dec. 31, 1974.

A prior section 1153, act Sept. 1, 1937, ch. 898, title IV, § 403, 50 Stat. 913, relating to an import compensating tax, expired on Dec. 31, 1947.

Section 1154, acts Aug. 8, 1947, ch. 519, title IV, § 404, 61 Stat. 932; June 25, 1948, ch. 646, § 1, 62 Stat. 909; July 13, 1962, Pub. L. 87–535, § 14, 76 Stat. 166; Oct. 14, 1971, Pub. L. 92–138, § 16, 85 Stat. 389, related to court jurisdiction and expired on Dec. 31, 1974.

A prior section 1154, act Sept. 1, 1937, ch. 898, title IV, § 404, 50 Stat. 914, relating to exportation of manufactured sugar and use of manufactured sugar in livestock feed or for distillation of alcohol, expired on Dec. 31, 1947.

Section 1155, acts Aug. 8, 1947, ch. 519, title IV, § 405, 61 Stat. 933; May 29, 1956, ch. 342, § 15, 70 Stat. 220, related to forfeitures and expired on Dec. 31, 1974.

A prior section 1155, act Sept. 1, 1937, ch. 898, title IV, § 405, 50 Stat. 914, relating to collection of taxes, expired on Dec. 31, 1947.

Section 1156, act Aug. 8, 1947, ch. 519, title IV, § 406, 61 Stat. 933, related to duty to furnish information and penalty for noncompliance and expired on Dec. 31, 1974.

A prior section 1156, act Sept. 1, 1937, ch. 898, title IV, § 406, 50 Stat. 914, relating to effective date of said title IV, expired on Dec. 31, 1947.

Section 1157, acts Aug. 8, 1947, ch. 519, title IV, § 407, 61 Stat. 933; May 29, 1956, ch. 342, § 16, 70 Stat. 220, related to prohibition of and penalty for sugar investments by officials and expired on Dec. 31, 1974.

Section 1158, acts Aug. 8, 1947, ch. 519, title IV, § 408, 61 Stat. 933; July 6, 1960, Pub. L. 86–592, § 3, 74 Stat. 330; Mar. 31, 1961, Pub. L. 87–15, § 3, 75 Stat. 40; July 13, 1962, Pub. L. 87–535, § 15, 76 Stat. 166; Nov. 8, 1965, Pub. L. 89–331, § 512(2)–(4), 79 Stat. 1279, 1280; Oct. 14, 1971, Pub. L. 92–138, § 17, 85 Stat. 389, related to suspension of quota and authorization provisions and expired on Dec. 31, 1974.

Section 1159, act Aug. 8, 1947, ch. 519, title IV, § 409, 61 Stat. 933, related to surveys and investigations by Secretary and to producer-processor and producer-labor contracts and expired on Dec. 31, 1974.

Section 1160, act Aug. 8, 1947, ch. 519, title IV, § 410, 61 Stat. 933, related to general conditions and factors affecting accomplishment of purposes of this chapter and publication of information and expired on Dec. 31, 1974.

Section 1161, act Aug. 8, 1947, ch. 519, title IV, § 411, added May 29, 1956, ch. 342, § 17, 70 Stat. 221, related to regulations to carry out international agreements restricting sugar importations and expired on Dec. 31, 1974.

SUBCHAPTER V—GENERAL PROVISIONS

§ 1171. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 649

Section, act Sept. 1, 1937, ch. 898, title V, § 501, 50 Stat. 915, authorized Secretary of Agriculture to appoint and fix compensation of employees and make expenditures necessary to carry out Sugar Act of 1937, which expired on Dec. 31, 1947.

§§ 1172 to 1183. Omitted

CODIFICATION

Section 1172, act Sept. 1, 1937, ch. 898, title V, § 502, 50 Stat. 915, related to annual appropriation and availability of funds, expired on Dec. 31, 1947, and was covered by section 402 of the Sugar Act of 1948, which was set out as former section 1152 of this title.

Section 1173, acts Sept. 1, 1937, ch. 898, title V, § 503, 50 Stat. 915; Oct. 15, 1940, ch. 887, § 3, 54 Stat. 1178; Dec. 26, 1941, ch. 638, § 6, 55 Stat. 873; June 20, 1944, ch. 266, § 2, 58 Stat. 284, related to appropriation of funds for transfer to Commonwealth of Philippine Islands for use in economic adjustment and expired Dec. 31, 1947.

Section 1174, act Sept. 1, 1937, ch. 898, title V, § 504, 50 Stat. 915, related to rules and regulations and fines for violations, expired on Dec. 31, 1947, and was covered by section 403 of the Sugar Act of 1948, which was set out as former section 1153 of this title.

Section 1175, act Sept. 1, 1937, ch. 898, title V, § 505, 50 Stat. 915, related to court jurisdiction, expired on Dec. 31, 1947, and was covered by section 404 of the Sugar Act of 1948, which was set out as former section 1154 of this title.

Section 1176, act Sept. 1, 1937, ch. 898, title V, § 506, 50 Stat. 915, related to forfeitures, expired on Dec. 31, 1947, and was covered by section 405 of the Sugar Act of 1948, which was set out as former section 1155 of this title.

Section 1177, act Sept. 1, 1937, ch. 898, title V, § 507, 50 Stat. 916, related to duty to furnish information and to penalty for noncompliance, expired on Dec. 31, 1947, and was covered by section 406 of the Sugar Act of 1948, which was set out as former section 1156 of this title.

Section 1178, act Sept. 1, 1937, ch. 898, title V, § 508, 50 Stat. 916, related to prohibition of and penalty for sugar investments by officials, expired on Dec. 31, 1947, and was covered by section 407 of the Sugar Act of 1948, which was set out as former section 1157 of this title. See section 7240 of Title 26, Internal Revenue Code.

Section 1179, act Sept. 1, 1937, ch. 898, title V, § 509, 50 Stat. 916, related to Presidential powers during an emergency, expired on Dec. 31, 1947, and was covered by section 408 of the Sugar Act of 1948, which was set out as former section 1158 of this title.

Section 1180, act Sept. 1, 1937, ch. 898, title V, § 510, 50 Stat. 916, specified laws which would become inapplicable to sugar on enactment of Sugar Act of 1937, and expired on Dec. 31, 1947.

Section 1181, act Sept. 1, 1937, ch. 898, title V, § 511, 50 Stat. 916, related to surveys and investigations of producer-processor and producer-laborer contracts, expired on Dec. 31, 1947, and was covered by section 409 of the Sugar Act of 1948, which was set out as former section 1159 of this title.

Section 1182, act Sept. 1, 1937, ch. 898, title V, § 512, 50 Stat. 916, related to general conditions and factors affecting accomplishment of purposes of the Sugar Act of 1937, expired on Dec. 31, 1947, and was covered by section 410 of the Sugar Act of 1948, which was set out as former section 1160 of this title.

Section 1183, acts Sept. 1, 1937, ch. 898, title V, § 513, 50 Stat. 916; Oct. 15, 1940, ch. 887, § 1, 54 Stat. 1178; Dec. 26, 1941, ch. 638, § 1, 55 Stat. 872; June 20, 1944, ch. 266, § 1, 58 Stat. 283; July 27, 1946, ch. 685, § 1, 60 Stat. 706, specified that the powers of the Secretary under the Sugar Act of 1937 were to terminate on Dec. 31, 1947. Similar provisions as to termination under the Sugar Act of 1948 are contained in section 412 of act Aug. 8, 1947, ch. 519, 61 Stat. 933, set out as a note under former section 1100 of this title.

CHAPTER 35—AGRICULTURAL ADJUSTMENT ACT OF 1938

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(c) Filing with county committees; calculation of normal yield for transfer.
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(e) Limitation on amount of acreage allotment; ''tillable cropland'' defined.
(f) Regulations.
(g) Sale of allotment or quota by one active Flue-cured tobacco producer to another; definition.
(h) Sale or forfeiture of allotment or quota; notice and opportunity for hearing; determination; review.
(h) Transfer authority.
1314b–1. Mandatory sale of certain Flue-cured tobacco acreage allotments and marketing quotas.
(a) Sale or forfeiture of acreage allotment or marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired.
(b) Forfeiture of acreage allotment or marketing quota by farmowners on or after December 1, 1983.
(c) Notice and opportunity for hearing; determination; review.
1314b–2. Mandatory sale of certain Burley tobacco acreage allotments and marketing quotas.
(a) Sale or forfeiture of marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired.
(b) Notice and opportunity for hearing; determination; review.
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1314c. Acreage-poundage quotas.
(a) Definitions.
(b) National marketing quota, acreage allotment and average yield goal for Flue-cured tobacco; referendum.
(c) Tobacco having marketing quotas on acreage basis; determination of Secretary of program on acreage-poundage basis; announcement of national marketing quota, acreage allotment and average yield goal; referendum.
(d) Proclamation of national marketing quota for three years following last year of three years of acreage-poundage quotas; referendum; notice of farm marketing quota to farm operators.
(e) Nonestablishment of farm acreage allotment or farm yield for farms without tobacco production for five years; reserve; ''new farms'' defined; acreage allotment and farm yield basis of new farms.
(f) Acreage reduction penalties applicable to acreage-poundage programs; farm marketing quota reductions; filing false reports; increases or decreases in acreage allotments and farm yields for other farms of owner displaced by agency acquisition of farms; leases and sales of acreage allotments and farm marketing quotas; ratification of transfers of acreage allotments.
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(g) Marketing penalties.
(h) Burley tobacco; acreage-poundage basis: farm acreage allotment and farm marketing quota, adjustments for overmarketing or undermarketing, reductions for violations; acreage and quota additional to national acreage allotment and national marketing quota; acreage basis: acreage allotment, amendment of clause (1) and proviso of section 1315.
(i) Consultations with industry representatives respecting a program for each kind of tobacco, studies of Flue-cured tobacco acreage-poundage program, report and recommendations to congressional committees, upon referendum approval of Flue-cured tobacco acreage-poundage program.
(j) Treatment of falsely identified tobacco for purposes of establishing future farm marketing quotas.
(k) Forfeiture of allotment and quota.
(*l*) Determination of Flue-cured tobacco planted acreage.
1314d. Fire-cured, dark air-cured, and Virginia sun-cured tobacco.
(a) Sale or lease of acreage allotments and acreage-poundage quotas.
(b) Conditions for transfers.
(c) Transfer of acreage history and marketing quota.
(d) Five-year restriction on new farm allotments or quotas.
(e) Allotment adjustment.
(f) Lease term.
(g) Acreage transfer maximums.
(h) Future allotments; referendum voting eligibility.
(i) Land utilization agreements; payment adjustments.
(j) Rules and regulations.
1314e. Farm poundage quotas for certain kinds of tobacco.
(a) Proclamations and referenda regarding burley tobacco.
(b) Proclamations and referenda regarding dark air-cured tobacco and types 22 and 23 fire-cured tobacco.
(c) Amount of national marketing quota, determination; national reserve, establishment.
(d) Farm yields; determination; limitation.
(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation.
(f) Reductions for false information.
(g) Leases and transfers of farm quotas; limitations.
(h) Loss of quotas through underplanting.
(i) Marketing penalties.
(j) Regulations.
(k) Lease and transfer of burley tobacco quota assigned.
(*l*) Lease and transfer of burley tobacco quotas in Tennessee and Virginia.
1314f. Nonquota tobacco subject to quota.
1314g. Submission of purchase intentions by cigarette manufacturers.
(a) Quantity of intended purchases; aggregation not to allow identification.
(b) Failure to submit; determination of quantity of intended purchases by Secretary.

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(c) Confidentiality of information; disclosure; publication of identity of violators; penalties.
(d) Exemption from public disclosure.
1314h. Purchase requirements; penalty.
(a) Statement of quantity purchased during marketing year.
(b) Failure to purchase at least 90 percent of quantity of intended purchases; reduction in quantity of intended purchases.
(c) Penalty for failure to purchase specified amount.
(d) Transmission of penalty by Secretary; deposit in No Net Cost Fund or Account.
(e) Confidentiality of information submitted; disclosure; publication of identity of violators; exemption from public disclosure; penalties.
(f) ''Quota tobacco'' defined.
1314i. Domestic marketing assessment.
(a) Certification.
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(c) Domestic marketing assessment.
(d) Purchase of Burley tobacco.
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(f) Crop losses due to disasters.
(g) Effective date.
1315. Burley tobacco acreage allotments.
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1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.
1322 to 1325. Repealed.
1326. Adjustment of farm marketing quotas.
1327 to 1329. Omitted.
1329a. Discontinuance of acreage allotments on corn.
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SUBPART III—MARKETING QUOTAS—WHEAT

1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.
1332. National marketing quota.
(a) Proclamation; duration of program.
(b) Amount; minimum.
(c) National emergencies or material increase in demand; investigation; increase or termination.
(d) Farm marketing quotas for wheat crops planted in calendar years 1966–1970.
1333. National acreage allotment.
1334. Apportionment of national acreage allotment.
(a) Apportionment among States; special acreage reserve.
(b) Apportionment among counties.
(c) Apportionment among farms; overplanted allotments; reductions; notice.
(d) Repealed.
(e) Increase in acreage allotments and marketing quotas for class II durum wheat.
(f) Voluntary surrender of acreage allotment.
(g) Plantings in excess of allotments or where no allotment is established.
(h) Omitted.
(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat.
(j) Increased durum wheat acreage allotments to Tulelake area, California, for 1970 and subsequent years; factors determinative; effect of increased allotments on marketing allocations and diversion payments.
(k) Transfer of farm wheat acreage allotments in case of natural disasters.
1334a. Omitted.
1334a–1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops.
1334b. Designation of States outside commercial wheat-producing areas.
1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates.
1336. Referendum.
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1338. Transfer of quotas.
1339. Land use.
(a) Penalties: computation, lien, joint and several liability and interest; exceptions: nonsurplus supply crops, substantial impairment, and nonproduction of wheat; diverted acreage: amount, annual identity, and grazing; crops available for marketing.
(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments.
(c) Adjustment of payments.
(d) Advance payments.
(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate.
(f) Additional terms and conditions.
(g) Regulations.
(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses.
1339a. Good faith reliance.
1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat.
1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage.
1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans.
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1342a. National cotton production goal.
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(a) Basis.
(b) Apportionment among States for year 1953 and subsequent years; adjustment; national acreage reserve.
(c) Apportionment among States for years 1950 and 1951; computation and adjustment.
(d) Apportionment for year 1952; adjustment.
(e) Apportionment among counties; reservation of acreage; additional acreage for establishing minimum farm allotments.
(f) Apportionment among farms.
(g) Law and conditions governing establishment of acreage allotments and yields.
(h) Repealed.
(i) Excess planting; old and new farm allotment.
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(k) Minimum allotments to States.
(*l*) Administration of law governing war crops.
(m) Acreage allotments, 1954; increases; apportionments; limitations; unallotted farm acreage; reapportionment of surrendered acreage; extra long staple cotton; reserve acreage.
(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment.
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1344b. Sale, lease, or transfer of cotton acreage allotments.
(a) Authority for calendar years 1966 through 1970; transfer periods.
(b) Requisite conditions for transfer of acreage allotments.
(c) Extent of estate transferred.
(d) Period of ineligibility of land for new allotment.
(e) Transfer of allotments established under minimum allotment provisions.
(f) Rules and regulations.
(g) Adjustment upon transfer of land covered by conservation reserve contract.
(h) Exchange of cotton acreage allotments for rice acreage allotments.
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1345. Farm marketing quotas; farm marketing excess.
1346. Penalties.
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1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory.
1349. Export market acreage.
(a) Supplementary allotments for 1964 and 1965; acreage limitation; apportionment among States and farms; ''export market acreage'' on any farm; farm acreage allotment for farms with export acreage; additional allotment; establishment of future allotments without regard to export acreage; exclusion of extra-long-staple cotton and farms receiving additional price support for 1964 and 1965.
(b) Bond, other undertaking, and lieu payments for exportation without subsidy and within specified period; terms and conditions; liquidated damages; farm acreage allotment upon noncompliance with conditions; remissions to CCC for defraying costs of encouraging export sales of cotton.
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(a) Establishment.
(b) Apportionment to States.
(c) Apportionment to counties.
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(e) Apportionment to farms.
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SUBPART V—MARKETING QUOTAS—RICE

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1357. Legislative findings.
1358. National marketing quota.
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(b) Referendum.
(c) Apportionment of national acreage allotment.
(d) Farm acreage allotments.
(e) County acreage allotments.
(f) New farm allotments.
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(i) Production on farms with no allotments.
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1358–1. National poundage quotas and acreage allotments for peanuts.
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(d) Referendum respecting poundage quotas.
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1358a. Transfer of peanut acreage allotments.
(a) Authority to permit transfers.
(b) Conditions upon transfer; adjustment of allotment.
(c) Transfer of acreage history and marketing quota; transfer by lease.
(d) Eligibility of transferred land for new allotment.
(e) Duration of lease; terms and conditions.
(f) Lease of part of acreage allotment; determination of future allotments; eligibility for referendum.
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(a) In general.
(b) Conditions.
(c) Crops.
1358c. Experimental and research programs for peanuts.
(a) In general.

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(b) Quantity.
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(d) Crops.
1359. Marketing penalties.
1359a. Marketing penalties and disposition of additional peanuts.
(a) Marketing penalties.
(b) Use of quota and additional peanuts.
(c) Marketing peanuts with excess quantity, grade, or quality.
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(g) Marketing of peanuts owned or controlled by Commodity Credit Corporation.
(h) Administration.
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1359aa. Information reporting.
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1359bb. Marketing allotments for sugar and crystalline fructose.
(a) Sugar estimates.
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1359cc. Establishment of marketing allotments.
(a) In general.
(b) Overall allotment quantity.
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(e) Marketing allotment.
(f) State cane sugar allotments.
(g) Adjustment of marketing allotments.
(h) Filling cane sugar and beet sugar allotments.
1359dd. Allocation of marketing allotments.
(a) In general.
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(a) Persons reporting.
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(a) Allotment pool.
(b) Circumstances precluding application of provisions.
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(d) Statement or form of certificates and transfers.
(e) Failure of producer to comply with programs; issuance of certificates.
1379d. Marketing restrictions.
(a) Transfers of certificates; purchases by Commodity Credit Corporation.
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(c) Undertaking to secure marketing of commodity without certificate.
(d) ''Food products'' defined; exemption of flour second clears.
1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest.

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1379f. Conversion factors.
1379g. Authority to facilitate transition.
1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary.
1379i. Penalties.
(a) Forfeitures; amount; civil action.
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(d) Felonies; punishment.
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1380a to 1380p. Omitted.

PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

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1381 to 1382. Omitted.
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1383a. Written consent for reconcentration of cotton.
1384. Repealed.
1385. Finality of payments and loans; substitution of beneficiaries.
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1387. Photographic reproductions and maps.
1388. Utilization of local agencies.
(a) Designation of local agencies and local administrative areas.
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1391. Authorization of appropriations; loans from Commodity Credit Corporation.
1392. Administrative expenses; posting names and compensation of local employees.
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SUBCHAPTER III—COTTON POOL PARTICIPATION TRUST CERTIFICATES

1401 to 1407. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 511r, 1428, 1442, 1444a, 1446c, 1745, 2279, 7301, 7502 of this title.

GENERAL PROVISIONS

§ 1281. Short title

This chapter may be cited as the ''Agricultural Adjustment Act of 1938''.

(Feb. 16, 1938, ch. 30, § 1, 52 Stat. 31.)

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–577, § 1, Nov. 15, 1990, 104 Stat. 2856, provided: ''That this Act [amending sections 1314e and 1379 of this title] may be cited as the 'Farm Poundage Quota Revisions Act of 1990'.''

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–198, title XVIII, § 1801, Dec. 23, 1985, 99 Stat. 1660, provided that: ''Except as otherwise provided in this Act, this Act and the amendments made by this Act [see Tables for classification] shall become effective on the date of the enactment of this Act [Dec. 23, 1985].''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–260, § 1, Mar. 20, 1986, 100 Stat. 45, provided that: ''This Act [enacting section 1433c–1 of this title, amending sections 259, 1431, 1441–1, 1444–1, 1444e, 1445b–3, 1446, 1464, 1466, 1736–1, 1736s, and 1736v of this title, section 5312 of Title 5, Government Organization and Employees, and section 714b of Title 15, Commerce and Trade, enacting provisions set out as notes under sections 608c, 1441–1, and 1446 of this title, and amending provisions set out as a note under section 2025 of this title] may be cited as the 'Food Security Improvements Act of 1986'.''

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–198, § 1, Dec. 23, 1985, 99 Stat. 1354, provided that: ''This Act [see Tables for classification] may be cited as the 'Food Security Act of 1985'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–218, § 1, July 20, 1982, 96 Stat. 197, provided that: ''This Act [enacting sections 1314–1, 1314b–1, 1314b–2, 1445–1, and 1445–2 of this title, amending sections 1301, 1314, 1314b, 1314c, 1314e, 1314f, 1316, 1373, and 1445 of this title, and enacting provisions set out as notes under sections 1314, 1314b, 1445, 1445–1, and 1445–2 of this title, and under section 590h of Title 16, Conservation] may be cited as the 'No Net Cost Tobacco Program Act of 1982'.''

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–98, § 1, Dec. 22, 1981, 95 Stat. 1213, provided in part that Pub. L. 97–98 [see Tables for classification] be cited as the ''Agriculture and Food Act of 1981''.

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–113, § 1, Sept. 29, 1977, 91 Stat. 913, provided: ''That this Act [enacting sections 1308 to 1310, 1444c, 1445b to 1445f, 1715, 2027, 2266, 2267, 2281 to 2289, 2669, 2670, 3101 to 3103, 3121 to 3128, 3151 to 3154, 3171 to 3178, 3191 to 3201, 3221, 3222, 3241, 3251, 3252, 3261 to 3263, 3271, 3281, 3282, 3291, 3301 to 3304, 3311 to 3316, and 3401 to 3417 of this title and section 590q–3 of Title 16, Conservation, amending sections 75 to 79b, 84, 87 to 87b, 87e, 87f–1, 87f–2, 87h, 341 to 343, 361c, 390 to 390j, 427, 450i, 450j, 450*l*, 608e–1, 612c–3, 1011, 1307, 1352, 1358 to 1359, 1373, 1374, 1377, 1385, 1427 to 1428, 1431, 1441, 1444, 1446, 1446a, 1447, 1622, 1702, 1724, 1731 to 1733, 1736b, 1736c, 1781, 1782, 1923, 1929, 1929a, 1932, 1942, 2011 to 2026, 2201, 2204, 2652, 2654, 2662, 2663, and 2667 of this title, section 714b of Title 15, Commerce and Trade, sections 590h, 590*o*, 1002, 1005, 1006a, and 1505 of Title 16, and section 6651 of Title 42, The Public Health and Welfare, repealing section 390k of this title, enacting provisions set out as notes under this section, sections 74, 75a, 612c, 1307, 1330, 1331, 1342, 1352, 1353, 1358, 1358a, 1359, 1373, 1377, 1379d, 1385, 1427, 1428, 1441, 1444, 1444b, 1444c, 1445a to 1445c, 1446, 1446d, 1447, 1691, 2011, 2012, 2266, 3101, and 3401 of this title, and section 714b of Title 15, and amending provisions set out as notes under sections 74, 79, 135b, 608c, 612c, 1308, and 2011 of this title and under section 1382e of Title 42] may be cited as the 'Food and Agriculture Act of 1977'.''

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–86, § 6, formerly § 5, Aug. 10, 1973, 87 Stat. 250, as renumbered Pub. L. 95–113, title XIII, § 1304(b)(1), Sept. 29, 1977, 91 Stat. 980, provided that: ''This Act [enacting sections 428b, 612c–2, 612c–3, 1282a, 1427a, 1434, 1441a, 1736e, and 2026 of this title and sections 1501 to 1510 of Title 16, Conservation, amending sections 450j, 450*l*, 608c, 1301, 1305, 1306, 1307, 1334a–1, 1342a, 1344b, 1350, 1374, 1379b, 1379c, 1379g, 1428, 1444, 1444b, 1445a, 1446, 1446a, 1703, 1736c, 1782, 1787, 1925, 1926, 1932, 2012, 2014, 2016, 2019, 2025, 2119, 2651, and 2654 of this title, repealing section 1628 of this title, enacting provisions set out as notes under sections 608c, 612c, 624, 1301, 1305, 1306, 1344b, 1350, 1379b, 1379c, 1379d, 1441, 1444, 1445a, and 1446 of this title, section 142 of Title 13, Census, and section 71 of Title 45, Railroads, and amending provisions set out as notes under sections 135b, 608c, 1305, 1330 to 1336, 1338, 1339, 1342, 1343, 1344, 1344b, 1345, 1346, 1377 to 1379, 1379b, 1379c, 1385, 1427, 1428, 1441, 1445a, 1446, and 1446d of this title] may be cited as the 'Agriculture and Consumer Protection Act of 1973'.''

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–524, § 1, Nov. 30, 1970, 84 Stat. 1358, provided: ''That this Act [as amended by section 1 of Pub. L. 93–86, enacting sections 428b, 612c–2, 612c-3, 1282a, 1307, 1334a–1, 1339d, 1342a, 1350a, 1427a, 1434, 1441a, 1736e, 1787, 1930, and 2119 of this title, sections 590q–2 and 1501 to 1510 of Title 16, Conservation, and section 3122 of Title 42, The Public Health and Welfare, amending sections 450j, 450*l*, 608c, 1301, 1305, 1306, 1344b, 1350, 1374, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, 1444, 1444a, 1444b, 1445a, 1446, 1446a, 1703, 1704, 1736, 1736c, 1782, 1787, 1925, 1926, 1932, 2651, and 2654 of this title and section 590p of Title 16, Conservation, and enacting provisions set out as notes under sections 135b, 608c, 624, 1301, 1305, 1306, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1350, 1359, 1377, 1378, 1379, 1379b to 1379j, 1385, 1427, 1428, 1441, 1444, 1444b, 1445, 1445a, 1446, and 1446d of this title, section 142 of Title 13, Census, and section 71 of Title 45 Railroads] may be cited as the 'Agricultural Act of 1970'.''

SHORT TITLE OF 1964 AMENDMENT

Pub. L. 88–297, § 1, Apr. 11, 1964, 78 Stat. 173, provided: ''That this Act [enacting sections 1348 to 1350, amending sections 1301, 1334, 1336, 1339, 1344, 1376, 1377, 1379b, 1379c, 1379d, 1385, 1421, 1427, 1444, 1445a, enacting provisions set out as notes under sections 1332 and 1379b, and amending provisions set out as a note under section 1441 of this title] may be cited as the 'Agricultural Act of 1964'.''

SHORT TITLE OF 1962 AMENDMENT

Section 1 of Pub. L. 87–703 provided: ''That this Act [enacting sections 1334b, 1339 to 1339c, 1379a to 1379j, 1431d, 1445a and 1991 of this title and section 713a–13 of Title 15, Commerce and Trade, amending sections 608c, 1010, 1011, 1301, 1331 to 1334, 1335, 1336, 1340, 1371, 1385, 1427, 1431, 1431b, 1444b, 1697, 1731 to 1733, 1735, 1736, 1923, 1926, 1929, and 1942 of this title and sections 590g, 590h, 590p, 1004 and 1005 of Title 16, Conservation, repealing section 1337 of this title, enacting provisions set out as notes under this section, sections 1301, 1334, and 1441 of this title, and section 590p of Title 16] may be cited as the 'Food and Agriculture Act of 1962'.''

SHORT TITLE OF 1958 AMENDMENT

Pub. L. 85–835, § 1, Aug. 28, 1958, 72 Stat. 988, provided that: ''This Act [enacting sections 1344 note, 1378, 1431a, 1441 note, 1443, 1444, 1853 note, amending sections 1313, 1334, 1342, 1344, 1347, 1353, 1358, 1423, 1425, 1427, 1441, 1446, 1446a, 1782 to 1784, and repealing section 1301b of this title] may be cited as the 'Agricultural Act of 1958' ''.

SHORT TITLE OF 1956 AMENDMENT

Act May 28, 1956, ch. 327, § 1, 70 Stat. 188, provided: ''That this Act [see Tables for classification] may be cited as the 'Agricultural Act of 1956'.''

SHORT TITLE OF 1948 AMENDMENT

Act July 3, 1948, ch. 827, 62 Stat. 1247, provided: ''That this Act [see Tables for classification] may be cited as the 'Agricultural Act of 1948'.''

SEPARABILITY

Section 405 of Pub. L. 87–703 provided that: ''If any provision of this Act [see Short Title of 1962 Amendment note above] is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.''

§ 1282. Declaration of policy

It is declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590a et seq.], for the purpose of conserving national resources, preventing the wasteful use of soil fertility, and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish these purposes through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing quotas, assisting farmers to obtain insofar as practicable, parity prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices.

(Feb. 16, 1938, ch. 30, § 2, 52 Stat. 31.)

REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in text, is act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 590q of Title 16 and Tables.

TRANSFER OF FUNCTIONS

Functions of Agricultural Adjustment Administration transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 610 of this title.

Soil Conservation Service and Agricultural Adjustment Administration consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069, set out in note under section 601 of Appendix to Title 50, War and National Defense.

Functions of Soil Conservation Service in Department of Agriculture with respect to soil and moisture conservation operations conducted on lands under jurisdiction of Department of the Interior transferred to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior through such agency or agencies in Department of the Interior as Secretary shall designate, by 1940 Reorg. Plan No. IV, § 6, eff. June 30, 1940, set out in the Appendix to Title 5, Government Organization and Employees. See, also, sections 13 to 15 of said plan for provisions relating to transfer of functions of department heads, records, property, personnel, and funds.

CONGRESSIONAL DECLARATION OF POLICY UNDER AGRICULTURAL ACT OF 1961

Section 2 of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, provided that: ''In order more fully and effectively to improve, maintain, and protect the prices and incomes of farmers, to enlarge rural purchasing power, to achieve a better balance between supplies of agricultural commodities and the requirements of consumers therefor, to preserve and strengthen the structure of agriculture, and to revitalize and stabilize the overall economy at reasonable costs to the Government, it is hereby declared to be the policy of Congress to—

''(a) afford farmers the opportunity to achieve parity of income with other economic groups by providing them with the means to develop and strengthen their bargaining power in the Nation's economy;

''(b) encourage a commodity-by-commodity approach in the solution of farm problems and provide the means for meeting varied and changing conditions peculiar to each commodity;

''(c) expand foreign trade in agricultural commodities with friendly nations, as defined in section 107 of

Public Law 480, 83d Congress, as amended (7 U.S.C. 1707), and in no manner either subsidize the export, sell, or make available any subsidized agricultural commodity to any nations other than such friendly nations and thus make full use of our agricultural abundance;

''(d) utilize more effectively our agricultural productive capacity to improve the diets of the Nation's needy persons;

''(e) recognize the importance of the family farm as an efficient unit of production and as an economic base for towns and cities in rural areas and encourage, promote, and strengthen this form of farm enterprise;

''(f) facilitate and improve credit services to farmers by revising, expanding, and clarifying the laws relating to agricultural credit;

''(g) assure consumers of a continuous, adequate, and stable supply of food and fiber at fair and reasonable prices;

''(h) reduce the cost of farm programs, by preventing the accumulation of surpluses; and

''(i) use surplus farm commodities on hand as fully as practicable as an incentive to reduce production as may be necessary to bring supplies on hand and firm demand in balance.''

CONGRESSIONAL DECLARATION OF POLICY FOR YEAR 1949

Section 1(d) of act July 3, 1948, ch. 827, title I, 62 Stat. 1248, provided that: ''It is hereby declared to be the policy of the Congress that the lending and purchase operations of the Department of Agriculture (other than those referred to in subsections (a), (b), and (c) hereof [subsections (a) and (b) are set out as notes under this section and subsection (c) is set out as a note under section 713a–8 of Title 15, Commerce and Trade]) shall be carried out until January 1, 1950, so as to bring the price and income of the producers of other agricultural commodities not covered by subsections (a), (b), and (c) to a fair parity relationship with the commodities included under subsections (a), (b), and (c), to the extent that funds for such operations are available after taking into account the operations with respect to the commodities covered by subsections (a), (b), and (c). In carrying out the provisions of this subsection the Secretary of Agriculture shall have the authority to require compliance with production goals and marketing regulations as a condition to eligibility of producers for price support.''

STUDY OF PARITY INCOME POSITION OF FARMERS; REPORT TO CONGRESS BY JUNE 30, 1966

Section 705 of Pub. L. 89–321, title VII, Nov. 3, 1965, 79 Stat. 1210, directed the Secretary of Agriculture to make a study of the parity income position of farmers, and report the results of such study to the Congress not later than June 30, 1966.

PRICE STABILIZATION DURING YEAR 1950

Section 1(a), (b) of act July 3, 1948, ch. 827, title I, 62 Stat. 1247, as amended June 10, 1949, ch. 191, 63 Stat. 169, authorized the Secretary of Agriculture through any instrumentality or agency within or under the direction of the Department of Agriculture, by loans, purchases, or other operations to support prices received by producers of cotton, wheat, corn, tobacco, rice, and peanuts marketed before June 30, 1950 (September 30, 1950, in the case of Maryland and the cigar-leaf types of tobacco), if producers had not disapproved marketing quotas for such commodity for the marketing year beginning in the calendar year in which the crop is harvested.

Section 2 of act July 3, 1948, ch. 827, title I, 62 Stat. 1248, authorized the Secretary, from any funds available to the Department of Agriculture or any agency operating under its direction for price support operations or for the disposal of agricultural commodities, to use such sums as may be necessary to carry out the provisions of section 1 of the Act.

Section 6 of act July 3, 1948, ch. 827, title I, 62 Stat. 1250, provided in part that sections 1 and 2 of the act were to become effective Jan. 1, 1949.

§ 1282a. Emergency supply of agricultural products

(a) Establishment of prices to insure orderly, adequate and steady supply of products

Notwithstanding any other provision of law, the Secretary of Agriculture shall assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

(b) Adjustments in maximum price of products subject to any price control or freeze order or regulation to increase supply

The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

(c) "Agricultural products" defined

Under this section, the term ''agricultural products'' shall include meat, poultry, vegetables, fruits and all other agricultural commodities in raw or processed form, except forestry products or fish or fishery products.

(d) Implementation of policies to encourage full production in periods of short supply at fair and reasonable prices

The Secretary of Agriculture is directed to implement policies under this Act which are designed to encourage American farmers to produce to their full capabilities during periods of short supply to assure American consumers with an adequate supply of food and fiber at fair and reasonable prices.

(Pub. L. 91–524, title VIII, § 815, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

Executive Order 11723 (dated June 13, 1973), referred to in subsec. (b), was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, formerly set out as a note under section 1904 of Title 12, Banks and Banking.

This Act, referred to in subsec. (d), is Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, known as the Agricultural Act of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SUBCHAPTER I—ADJUSTMENT IN FREIGHT RATES, NEW USES AND MARKETS, AND DISPOSITION OF SURPLUSES

§ 1291. Adjustments in freight rates

(a) Complaints by Secretary of Agriculture; notice of hearings

The Secretary of Agriculture is authorized to make complaint to the Surface Transportation Board with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Board. Before hearing or disposing of any complaint (filed by any person other than the Secretary) with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, the Board shall cause the Secretary to be notified, and, upon application by the Secretary, shall permit the Secretary to appear and be heard.

(b) Secretary as party to proceedings

If such rate, charge, tariff, or practice complained of is one affecting the public interest, upon application by the Secretary, the Board shall make the Secretary a party to the proceeding. In such case the Secretary shall have the rights of a party before the Board and the rights of a party to invoke and pursue original and appellate judicial proceedings involving the Board's determination. The liability of the Secretary in any such case shall extend only to liability for court costs.

(c) Utilization of records, services, etc., of Department of Agriculture

For the purposes of this section, the Surface Transportation Board is authorized to avail itself of the cooperation, records, services, and facilities of the Department of Agriculture.

(d) Cooperation with complaining farm associations

The Secretary is authorized to cooperate with and assist cooperative associations of farmers making complaint to the Surface Transportation Board with respect to rates, charges, tariffs, and practices relating to the transportation of farm products.

(Feb. 16, 1938, ch. 30, title II, § 201, 52 Stat. 36; Dec. 29, 1988, Pub. L. 104–88, title III, § 311, 109 Stat. 948.)

AMENDMENTS

1995—Pub. L. 104–88 substituted ''Surface Transportation Board'' for ''Interstate Commerce Commission'' in subsecs. (a), (c), and (d), ''Board'' for ''Commission'' wherever appearing in subsecs. (a) and (b), and ''Board's'' for ''Commission's'' in subsec. (b).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 474.

§ 1292. New uses and markets for commodities

(a) Regional research laboratories

The Secretary is authorized and directed to establish, equip, and maintain four regional research laboratories, one in each major farm producing area, and, at such laboratories, to conduct researches into and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts thereof. Such research and development shall be devoted primarily to those farm commodities in which there are regular or seasonal surpluses, and their products and byproducts.

(b) Acquisition of land for laboratories; donations

For the purposes of subsection (a) of this section, the Secretary is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, to any laboratory established pursuant to this section, and to utilize voluntary or uncompensated services at such laboratories. Donations to any one of such laboratories shall not be available for use by any other of such laboratories.

(c) Cooperation with governmental agencies, associations, etc.

In carrying out the purposes of subsection (a) of this section, the Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, State agricultural experiment stations, and other State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(d) Appropriation for purposes of subsection (a)

To carry out the purposes of subsection (a) of this section, the Secretary is authorized to utilize in each fiscal year, beginning with the fiscal year beginning July 1, 1938, a sum not to exceed $4,000,000 of the funds appropriated pursuant to section 1391 of this title, or section 590*o* of title 16, for such fiscal year. The Secretary shall allocate one-fourth of such sum annually to each of the four laboratories established pursuant to this section.

(e) Repealed. Aug. 30, 1954, ch. 1076, § 1(3), 68 Stat. 966

(f) Appropriation to Secretary of Commerce

There is allocated to the Secretary of Commerce for each fiscal year, beginning with the fiscal year beginning July 1, 1938, out of funds appropriated for such fiscal year pursuant to section 1391 of this title, or section 590*o* of title 16 the sum of $1,000,000 to be expended for the promotion of the sale of farm commodities and products thereof in such manner as he shall direct. Of the sum allocated under this subsection to the Secretary of Commerce for the fiscal year beginning July 1, 1938, $100,000 shall be devoted to making a survey and investigation of the cause or causes of the reduction in exports of agricultural commodities from the United States, in order to ascertain methods by which the sales in foreign countries of basic agricultural commodities produced in the United States may be increased.

(g) Duty of Secretary

It shall be the duty of the Secretary to use available funds to stimulate and widen the use

of all farm commodities in the United States and to increase in every practical way the flow of such commodities and the products thereof into the markets of the world.

(Feb. 16, 1938, ch. 30, title II, § 202, 52 Stat. 37; Aug. 30, 1954, ch. 1076, § 1(3), 68 Stat. 966.)

AMENDMENTS

1954—Subsec. (e). Act Aug. 30, 1954, repealed subsec. (e) which required reports to Congress of the activities of, expenditures by, and donations to, the laboratories established pursuant to subsec. (a).

WHEAT RESEARCH AND PROMOTION ACT

Pub. L. 91–430, Sept. 26, 1970, 84 Stat. 885, provided:

''[Section 1. Short Title]. That this Act shall be known as the 'Wheat Research and Promotion Act.'

''SEC. 2 [Contract authority; sale of export marketing certificates and pro rata share of such certificates for financing agreements; rules and regulations]. The Secretary of Agriculture is authorized to enter into agreements with organizations of wheat growers, farm organizations, and such other organizations as he may deem appropriate to carry out a program of research and promotion designed to expand domestic and foreign markets and increase utilization for United States wheat and to carry out any other such program which he deems will benefit wheat producers in the United States. Notwithstanding any other provision of law, the Secretary shall use the total net proceeds from the sale of export marketing certificates during the marketing year ending June 30, 1969, to finance the cost of such agreements, except that he shall provide for the issuance of a pro rata share of export marketing certificates for such marketing year to any producer eligible therefor under section 379c of the Agricultural Adjustment Act of 1938, as amended [section 1379c of this title], who applies for such certificates not later than ninety days after the date of enactment of this Act [Sept. 26, 1970]. The Secretary is authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this Act.''

CROSS REFERENCES

Agricultural research generally, see sections 361a et seq. and 427 of this title.

Development of new uses for cotton, see section 724 of this title.

Marketing of agricultural products and control or eradication of plant and animal diseases and pests, cooperation with State agencies in administration and enforcement of laws relating to, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5925 of this title.

§ 1293. Transferred

CODIFICATION

Section, act Feb. 16, 1938, ch. 30, title II, § 204, 52 Stat. 38, which provided for annual report of Federal Surplus Commodities Corporation, was transferred to section 713c–1 of Title 15, Commerce and Trade.

SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1428 of this title.

PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

§ 1301. Definitions

(a) General definitions

For the purposes of this subchapter and the declaration of policy—

(1)(A) The ''parity price'' for any agricultural commodity, as of any date, shall be determined by multiplying the adjusted base price of such commodity as of such date by the parity index as of such date.

(B) The ''adjusted base price'' of any agricultural commodity, as of any date, shall be (i) the average of the prices received by farmers for such commodity, at such times as the Secretary may select during each year of the ten-year period ending on the 31st of December last before such date, or during each marketing season beginning in such period if the Secretary determines use of a calendar year basis to be impracticable, divided by (ii) the ratio of the general level of prices received by farmers for agricultural commodities during such period to the general level of prices received by farmers for agricultural commodities during the period January 1910 to December 1914, inclusive. As used in this subparagraph, the term ''prices'' shall include wartime subsidy payments made to producers under programs designed to maintain maximum prices established under the Emergency Price Control Act of 1942.

(C) The ''parity index'', as of any date, shall be the ratio of (i) the general level of prices for articles and services that farmers buy, wages paid hired farm labor, interest on farm indebtedness secured by farm real estate, and taxes on farm real estate, for the calendar month ending last before such date to (ii) the general level of such prices, wages, rates, and taxes during the period January 1910 to December 1914, inclusive.

(D) The prices and indices provided for herein, and the data used in computing them, shall be determined by the Secretary, whose determination shall be final.

(E) Notwithstanding the provisions of subparagraph (A) of this paragraph, the transitional parity price for any agricultural commodity, computed as provided in this subparagraph, shall be used as the parity price for such commodity until such date after January 1, 1950, as such transitional parity price may be lower than the parity price, computed as provided in subparagraph (A) of this paragraph, for such commodity. The transitional parity price for any agricultural commodity as of any date shall be—

(i) its parity price determined in the manner used prior to the effective date of the Agricultural Act of 1948, less

(ii) 5 per centum of the parity price so determined multiplied by the number of full calendar years (not counting 1956 in the case of basic agricultural commodities) which, as of such date, have elapsed after January 1, 1949, in the case of non-basic agricultural commodities, and after January 1, 1955, in the case of the basic agricultural commodities.

(F) Notwithstanding the provisions of subparagraphs (A) and (E) of this paragraph, if the parity price for any agricultural commodity, computed as provided in subparagraphs (A) and (E) of this paragraph, appears to be seriously out of line with the parity prices of other agricultural commodities, the Secretary may, and upon the request of a substantial number of interested producers shall, hold public hearings to determine the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities. Within sixty days after commencing such hearing the Secretary shall complete such hearing, proclaim his findings as to whether the facts require a revision of the method of computing the parity price of such commodity, and put into effect any revision so found to be required.

(G) Notwithstanding the foregoing provisions of this section, the parity price for any basic agricultural commodity, as of any date during the six-year period beginning January 1, 1950, shall not be less than its parity price computed in the manner used prior to October 31, 1949.

(2) ''Parity'', as applied to income, shall be that gross income from agriculture which will provide the farm operator and his family with a standard of living equivalent to those afforded persons dependent upon other gainful occupation. ''Parity'' as applied to income from any agricultural commodity for any year, shall be that gross income which bears the same relationship to parity income from agriculture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

(3) The term ''interstate and foreign commerce'' means sale, marketing, trade, and traffic between any State or Territory or the District of Columbia or Puerto Rico, and any place outside thereof; or between points within the same State or Territory or within the District of Columbia or Puerto Rico, through any place outside thereof; or within any Territory or within the District of Columbia or Puerto Rico.

(4) The term ''affect interstate and foreign commerce'' means, among other things, in such commerce, or to burden or obstruct such commerce or the free and orderly flow thereof; or to create or tend to create a surplus of any agricultural commodity which burdens or obstructs such commerce or the free and orderly flow thereof.

(5) The term ''United States'' means the several States and Territories and the District of Columbia and Puerto Rico.

(6) The term ''State'' includes a Territory and the District of Columbia and Puerto Rico.

(7) The term ''Secretary'' means the Secretary of Agriculture, and the term ''Department'' means the Department of Agriculture.

(8) The term ''person'' means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State.

(9) The term ''corn'' means field corn.

(b) Definitions applicable to one or more commodities

For the purposes of this subchapter—

(1)(A) ''Actual production'' as applied to any acreage of corn means the number of bushels of corn which the local committee determines would be harvested as grain from such acreage if all the corn on such acreage were so harvested. In case of a disagreement between the farmer and the local committee as to the actual production of the acreage of corn on the farm, or in case the local committee determines that such actual production is substantially below normal, the local committee, in accordance with regulations of the Secretary, shall weigh representative samples of ear corn taken from the acreage involved, make proper deductions for moisture content, and determine the actual production of such acreage on the basis of such samples.

(B) ''Actual production'' of any number of acres of cotton, rice or peanuts on a farm means the actual average yield for the farm times such number of acres.

(2) ''Bushel'' means in the case of ear corn that amount of ear corn, including not to exceed 15½ per centum of moisture content, which weighs seventy pounds, and in the case of shelled corn, means that amount of shelled corn including not to exceed 15½ per centum of moisture content, which weighs fifty-six pounds.

(3)(A) ''Carry-over'', in the case of corn, rice, and peanuts for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any quantity which was produced in the United States during the calendar year then current.

(B) ''Carry-over'' of cotton for any marketing year shall be the quantity of cotton on hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current.

(C) ''Carry-over'' of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco), which was produced in the United States prior to the beginning of the calendar year in which such marketing year begins, except that in the case of cigar-filler and cigar-binder tobacco the quantity of type 46 on hand and theretofore produced in the United States during such calendar year shall also be included.

(D) ''Carry-over'' of wheat, for any marketing year shall be the quantity of wheat on hand in the United States at the beginning of such marketing year, not including any wheat which was produced in the United States during the calendar year then current, and not including any wheat held by the Federal Crop Insurance Corporation under the Federal Crop Insurance Act [7 U.S.C. 1501 et seq.].

(4)(A) ''Commercial corn-producing area'' shall include all counties in which the average production of corn (excluding corn used as silage) during the ten calendar years imme-

diately preceding the calendar year for which such area is determined, after adjustment for abnormal weather conditions, is four hundred and fifty bushels or more per farm and four bushels or more for each acre of farm land in the county.

(B) Whenever prior to February 1 of any calendar year the Secretary has reason to believe that any county which is not included in the commercial corn-producing area determined pursuant to the provisions of subparagraph (A) of this subsection, but which borders upon one of the counties in such area, or that any minor civil division in a county bordering on such area, is producing (excluding corn used for silage) an average of at least four hundred and fifty bushels of corn per farm and an average of at least four bushels for each acre of farm land in the county or in the minor civil division, as the case may be, he shall cause immediate investigation to be made to determine such fact. If, upon the basis of such investigation, the Secretary finds that such county or minor civil division is likely to produce corn in such average amounts during such calendar year, he shall proclaim such determination and, commencing with such calendar year, such county shall be included in the commercial corn-producing area. In the case of a county included in the commercial corn-producing area pursuant to this subparagraph, whenever prior to February 1 of any calendar year the Secretary has reason to believe that facts justifying the inclusion of such county are not likely to exist in such calendar year, he shall cause an immediate investigation to be made with respect thereto. If, upon the basis of such investigation, the Secretary finds that such facts are not likely to exist in such calendar year, he shall proclaim such determination, and commencing with such calendar year, such county shall be excluded from the commercial corn-producing area.

(5) ''Farm consumption'' of corn means consumption by the farmer's family, employees, or household, or by his work stock; or consumption by poultry or livestock on his farm if such poultry or livestock, or the products thereof, are consumed or to be consumed by the farmer's family, employees, or household.

(6)(A) ''Market'', in the case of corn, cotton, rice, tobacco, and wheat, means to dispose of, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos, and, in the case of corn and wheat, by feeding (in any form) to poultry or livestock which, or the products of which, are sold, bartered, or exchanged, or to be so disposed of, but does not include disposing of any such commodities as premium to the Federal Crop Insurance Corporation under the Federal Crop Insurance Act [7 U.S.C. 1501 et seq.].

(B) ''Marketed'', ''marketing'', and ''for market'' shall have corresponding meanings to the term ''market'' in the connection in which they are used.

(C) ''Market'', in the case of peanuts, means to dispose of peanuts, including farmers' stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(7) ''Marketing year'' means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Corn, September 1–August 31;
Cotton, August 1–July 31;
Rice, August 1–July 31;
Tobacco (flue-cured), July 1–June 30;
Tobacco (other than flue-cured), October 1–September 30;
Wheat, June 1–May 31.

(8)(A) ''National average yield'' as applied to cotton or wheat shall be the national average yield per acre of the commodity during the ten calendar years in the case of wheat, and during the five calendar years in the case of cotton, preceding the year in which such national average yield is used in any computation authorized in this subchapter, adjusted for abnormal weather conditions and, in the case of wheat, but not in the case of cotton, for trends in yields.

(B) ''Projected national yield'' as applied to any crop of wheat shall be determined on the basis of the national yield per harvested acre of the commodity during each of the five calendar years immediately preceding the year in which such projected national yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(9) ''Normal production'' as applied to any number of acres of corn or rice means the normal yield for the farm times such number of acres. ''Normal production'' as applied to any number of acres of cotton or wheat means the projected farm yield times such number of acres.

(10)(A) ''Normal supply'' in the case of corn, rice, wheat, and peanuts for any marketing year shall be (i) the estimated domestic consumption of the commodity for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus (ii) the estimated exports of the commodity for the marketing year for which normal supply is being determined, plus (iii) an allowance for carry-over. The allowance for carry-over shall be the following percentage of the sum of the consumption and exports used in computing normal supply: 15 per centum in the case of corn; 10 per centum in the case of rice; 20 per centum in the case of wheat; and 15 per centum in the case of peanuts. In determining normal supply the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(B) ''Normal supply'' in the case of tobacco shall be a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

(C) The ''normal supply'' of cotton for any marketing year shall be the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus, 30 per centum

of the sum of such consumption and exports as an allowance for carry-over.

(11)(A) ''Normal year's domestic consumption'', in the case of corn and wheat, shall be the yearly average quantity of the commodity, wherever produced, that was cosumed[1] in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(B) ''Normal year's domestic consumption'', in the case of cotton and tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(C) ''Normal year's domestic consumption'', in the case of rice, shall be the yearly average quantity of rice produced in the United States that was consumed in the United States during the five marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(12) ''Normal year's exports'' in the case of corn, cotton, rice, tobacco, and wheat shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years (or, in the case of rice, the five marketing years) immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

(13)(A) Repealed. Pub. L. 87–703, title III, § 320(1), Sept. 26, 1962, 76 Stat. 625.

(B) ''Normal yield'' for any county, in the case of peanuts, shall be the average yield per acre of peanuts for the county adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. For 1942, the normal yield for any county, in the case of peanuts, shall be the average yield per acre for peanuts for the county, adjusted for abnormal conditions, during the years 1936–1940, inclusive, except that for any county in which the years 1935–1939, inclusive, are equally as representative, such period may be used in determining the normal yields for counties in the State.

(C) In applying subparagraph (A) or (B) of this paragraph, if for any such year the data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year. In applying such subparagraphs, if, on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield in any year of such ten-year period or five-year period, as the case may be, is less than 75 per centum of the average (computed without regard to such year) such year shall be eliminated in calculating the normal yield per acre.

(D) ''Normal yield'' for any county, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the county during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

(E) ''Normal yield'' for any farm, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the farm during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations issued by the Secretary, taking into consideration abnormal weather conditions, trends in yields, the normal yield for the county, the yields obtained on adjacent farms during such year and the yield in years for which data are available.

(F) In applying subparagraphs (D) and (E) of this paragraph, if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any year of such five-year period is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre. If, on account of abnormally favorable weather conditions, the yield for any year of such five-year period is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

(G) ''Normal yield'' for any farm, in the case of corn or peanuts, shall be the average yield per acre of corn or peanuts, as the case may be, for the farm, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. For 1942, the normal yield for any farm, in the case of peanuts, shall be the average yield per acre of peanuts for the farm, adjusted for abnormal conditions, during the years 1936–1940, inclusive, except that for any county in which the years 1935–1939, inclusive, are equally as representative, such period may be used in determining normal yields for farms in the county. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into

[1] So in original. Probably should be ''consumed''.

consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available.

(H) ''Normal yield'' for any county, for any crop of cotton, shall be the average yield per acre of cotton for the county, adjusted for abnormal weather conditions and any significant changes in production practices during the five calendar years immediately preceding the year in which the national marketing quota for such crop is proclaimed. If for any such year the data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year.

(I) ''Normal yield'' for any farm, for any crop of cotton, shall be the average yield per acre of cotton for the farm, adjusted for abnormal weather conditions and any significant changes in production practices during the three calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available, or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, changes in production practices, and the yield in years for which data are available.

(J) ''Projected county yield'' for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity on the county during each of the five calendar years immediately preceding the year in which such projected county yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(K) ''Projected farm yield'' for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity in the farm during each of the three calendar years immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (E) of this paragraph.

(L) ''Projected national, State, and county yields'' for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop in the United States, the State and the county, respectively, during each of the five calendar years immediately preceding the year in which such projected yield for the United States, the State, and the county, respectively, is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices.

(M) ''Projected farm yield'' for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop on the farm during each of the three calendar years immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (I) of this paragraph.

(14)(A) ''Reserve supply level'', in the case of corn, shall be a normal year's domestic consumption and exports of corn plus 10 per centum of a normal year's domestic consumption and exports, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(B) ''Reserve supply level'' of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(C) ''Reserve stock level'', in the case of Flue-cured tobacco, shall be the greater of—

(i) 100,000,000 pounds (farm sales weight); or

(ii) 15 percent of the national marketing quota for Flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

(D) ''Reserve stock level'', in the case of Burley tobacco, shall be the greater of—

(i) 50,000,000 pounds (farm sales weight); or

(ii) 15 percent of the national marketing quota for Burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

(15) ''Tobacco'' means each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the Department.

Flue-cured tobacco, comprising types 11, 12, 13, and 14;

Fire-cured tobacco comprising types 21, 22, 23, and 24;

Dark air-cured tobacco, comprising types 35 and 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55;

Cigar-filler tobacco, comprising type 41.

The provisions of this subchapter shall apply to each of such kinds of tobacco severally: *Provided*, That any one or more of the types comprising any such kind of tobacco shall be treated as a ''kind of tobacco'' for the purposes of this chapter and sections 590h and 590*o* of title 16 if the Secretary finds there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand: *Provided further*, That with respect to the 1958 and subsequent

crops, type 21 (Virginia) fire-cured tobacco shall be treated as a ''kind of tobacco'' for the purposes of all of the provisions of this subchapter, except that for the purposes of section 1312(c) of this title, types 21, 22, and 23, fire-cured tobacco shall be treated as one ''kind of tobacco'': *And provided further*, That for purposes of section 1314e of this title, types 22 and 23, fire-cured tobacco shall be treated as one ''kind of tobacco''.

(16)(A) ''Total supply'' of wheat, corn, rice, and peanuts for any marketing year shall be the carry-over of the commodity for such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(B) ''Total supply'' of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production thereof in the United States during the calendar year in which such marketing year begins, except that the estimated production of type-46 tobacco during the marketing year with respect to which the determination is being made shall be used in lieu of the estimated production of such type during the calendar year in which such marketing year begins in determining the total supply of cigar-filler and cigar-binder tobacco.

(C) ''Total supply'' of cotton for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins and the estimated imports of cotton into the United States during such marketing year.

(17) ''Domestic manufacturer of cigarettes'' means a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States.

(c) Use of Federal statistics

The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this chapter.

(d) Exclusion of stocks of certain commodities

In making any determination under this chapter or under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] with respect to the carryover of any agricultural commodity, the Secretary shall exclude from such determination the stocks of any commodity acquired pursuant to, or under the authority of, the Strategic and Critical Materials Stock Piling Act (60 Stat. 596) [50 U.S.C. 98 et seq.].

(Feb. 16, 1938, ch. 30, title III, § 301, 52 Stat. 38; Apr. 7, 1938, ch. 107, §§ 2–4, 52 Stat. 202; June 13, 1940, ch. 360, § 1, 54 Stat. 392; July 2, 1940, ch. 521, §§ 3–5, 54 Stat. 727, 728; Nov. 22, 1940, ch. 914, §§ 1, 3, 4, 54 Stat. 1209, 1210; Nov. 25, 1940, ch. 917, 54 Stat. 1211; Apr. 3, 1941, ch. 39, §§ 2, 3, 55 Stat. 91, 92; July 9, 1942, ch. 497, § 1(4), (5), 56 Stat. 654; July 3, 1948, ch. 827, title II, § 201(a), (b), (d), (e), 62 Stat. 1250; Aug. 29, 1949, ch. 518, § 2(a), 63 Stat. 675; Oct. 31, 1949, ch. 792, title IV, §§ 409(a)–(d), 415(c)–(e), 418(b), (c), 63 Stat. 1056, 1057, 1958, 1062; July 8, 1952, ch. 587, 66 Stat. 442; July 17, 1952, ch. 933, § 1, 66 Stat. 758; July 14, 1953, ch. 194, § 6, 67 Stat. 152; Aug. 28, 1954, ch. 1041, title III, §§ 301, 302, 68 Stat. 902; May 28, 1956, ch. 327, title V, § 502, title VI, § 602, 70 Stat. 212, 213; July 10, 1957, Pub. L. 85–92, § 1, 71 Stat. 284; Sept. 27, 1962, Pub. L. 87–703, title III, § 320, 76 Stat. 625; Apr. 11, 1964, Pub. L. 88–297, title I, § 106(5)–(7), 78 Stat. 177; Nov. 3, 1965, Pub. L. 89–321, title IV, § 403, title V, §§ 509, 511(a), 79 Stat. 1197, 1204, 1205; Nov. 30, 1970, Pub. L. 91–524, title IV, § 405(b), as added Aug. 10, 1973, Pub. L. 93–86, § 1(12), 87 Stat. 229; July 25, 1975, Pub. L. 94–61, § 1, 89 Stat. 302; July 20, 1982, Pub. L. 97–218, title III, § 303(a), 96 Stat. 211; Dec. 23, 1985, Pub. L. 99–198, title X, § 1020, 99 Stat. 1459; Apr. 7, 1986, Pub. L. 99–272, title I, § 1103(a), 100 Stat. 85.)

REFERENCES IN TEXT

Emergency Price Control Act of 1942, referred to in subsec. (a)(1)(B), was act Jan. 30, 1942, ch. 26, 56 Stat. 23, as amended, which was classified to section 901 et seq. of Title 50, Appendix, War and National Defense, and which terminated June 30, 1947.

For effective date of the Agricultural Act of 1948, referred to in subsec. (a)(1)(E)(i), see Effective Date of 1948 Amendment note set out under section 624 of this title with reference to title I of said act, and Effective Date of 1948 Amendment note set out below with reference to titles II and III of said Act.

The Federal Crop Insurance Act, referred to in subsec. (b)(3)(D), (6)(A), is title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, as amended, which is classified generally to chapter 36 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (d), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, § 2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

AMENDMENTS

1986—Subsec. (b)(14)(C), (D). Pub. L. 99–272, § 1103(a)(1), added subpars. (C) and (D).

Subsec. (b)(17). Pub. L. 99–272, § 1103(a)(2), added par. (17).

1985—Subsec. (b)(7). Pub. L. 99–198 substituted ''Corn, September 1–August 31'' for ''Corn, October 1–September 30''.

1982—Subsec. (b)(15). Pub. L. 97–218 inserted proviso that for purposes of section 1314e of this title, types 22 and 23, fire-cured tobacco shall be treated as one ''kind of tobacco''.

1975—Subsec. (b)(7). Pub. L. 94–61 substituted ''Wheat, June 1–May 31'' for ''Wheat, July 1–June 30''.

1973—Subsec. (b)(13)(K). Pub. L, 91–524, § 405(b), as added by Pub. L. 93–86, temporarily inserted ''(five calendar years in the case of wheat)'' after ''three calendar years''. See Effective and Termination Dates of 1973 Amendment note below.

1965—Subsec. (b)(8). Pub. L. 89–321, § 509(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(9). Pub. L. 89–321, § 511(a), struck out ''cotton'' and ''wheat'' in first sentence, and inserted definition of normal production when applied to any number of acres of cotton or wheat.

Subsec. (b)(13). Pub. L. 89–321, §§403, 509(2), added subpars. (J), (K), (L), and (M).

1964—Subsec. (b)(13). Pub. L. 88–297, §106(5)–(7), struck out ''cotton or'' before ''peanuts'' in subpar. (B) in two places, struck out '', cotton,'' after ''corn'' in subpar. (G) in two places, and added subpars. (H) and (I), respectively.

1962—Subsec. (b)(13). Pub. L. 87–703 struck out par. (A) which defined ''normal yield'' for any county in the case of corn or wheat; inserted in pars. (D) and (E) ''and wheat'' after ''in the case of rice'', ''or wheat, as the case may be,'' after ''per acre of rice'', and ''in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat'' after ''determined''; and struck out from par. (G) ''wheat,'' after ''corn,'' in two places, ''and, in the case of wheat, but not in the case of corn, cotton, or peanuts, for trends in yields'' after ''abnormal weather conditions'', ''ten calendar years in the case of wheat, and'' before ''five calendar years'' and ''in the case of corn, cotton, or peanuts'' after ''five calendar years''.

1957—Subsec. (b)(15). Pub. L. 85–92 inserted proviso relating to treatment of type 21 fire-cured tobacco as a ''kind of tobacco''.

1956—Subsec. (a)(1)(E). Act May 28, 1956, §602, inserted ''(not counting 1956 in the case of basic agricultural commodities)'' after ''full calendar years''.

Subsec. (b)(13). Act May 28, 1956, §502, limited determination of normal yield provided for in subpar. (D) only to counties and authorized adjustments for abnormal weather conditions and for trends in yields, added subpars. (E) and (F), and redesignated subpar. (E) as (G).

1954—Subsec. (a)(1)(E). Act Aug. 28, 1954, §301, changed definition of ''transitional parity price'' as applied to basic agricultural commodities so as to make it ''old parity'' less 5 per centum for each full year elapsed since Jan. 1, 1955, instead of Jan. 1, 1949.

Subsec. (b). Act Aug. 28, 1954, §302, increased carryover allowance from 10 per centum to 15 per centum in case of corn and from 15 per centum to 20 per centum in case of wheat in subpar. (10)(A), and provided for computing county and farm ''normal yields'' on the basis of 5-year yields instead of 10-year yields in case of corn in subpars. (13)(A) and (13)(E).

1953—Subsec. (d). Act July 14, 1953, added subsec. (d).

1952—Subsec. (a)(1)(G). Act July 17, 1952, extended dual parity provisions for two years.

Subsec. (b)(3)(C), (16)(B). Act July 8, 1952, provided for computation of carry-over as of Jan. 1st, following the beginning of the marketing year instead of Oct. 1st the beginning of the marketing year.

1949—Subsec. (a)(1)(B). Act Oct. 31, 1949, §409(a), inserted last sentence.

Subsec. (a)(1)(C). Act Oct. 31, 1949, §409(b), inserted '', wages paid hired farm labor'' after ''buy'' and '', wages'' after ''such prices''.

Subsec. (a)(1)(G). Act Oct. 31, 1949, §409(c), added subpar. (G).

Subsec. (b)(1)(B). Act Oct. 31, 1949, §418(b), included the actual production of rice.

Subsec. (b)(3)(B). Act Oct. 31, 1949, §415(e), repealed amendatory provisions of act July 3, 1948, ch. 827, title II, §201(c), 62 Stat. 1250.

Act Aug. 29, 1949, §2(a)(1), changed definition of ''carry-over'' of cotton by excluding United States cotton on hand outside the United States.

Subsec. (b)(9). Act Oct. 31, 1949, §418(c), included normal production of rice.

Subsec. (b)(10(A). Act Oct. 31, 1949, §409(d), increased from 7 per centum to 10 per centum the carryover allowance for corn.

Act Aug. 29, 1949, §2(a)(2), made provision inapplicable to cotton.

Subsec. (b)(10)(C). Act Aug. 29, 1949, §2(a)(2), added subpar. (C) which was also reenacted by act Oct. 31, 1949, §415(c).

Subsec. (b)(16)(A). Act Oct. 31, 1949, §415(d), struck out ''cotton,'' after ''corn,''.

Act Aug. 29, 1949, §2(a)(3), made provision inapplicable to cotton.

Subsec. (b)(16)(C). Act Aug. 29, 1949, §2(a)(3), added subpar. (C) which was also reenacted by act Oct. 31, 1949, §415(d).

1948—Subsec. (a). Act July 3, 1948, §201(a), struck out paragraphs (1) and (2) and inserted new paragraphs (1) and (2) to change the method of computing parity prices to give recognition to changes in relationships among the prices of agricultural commodities themselves which have occurred since the base period 1910 to 1914, and redefined ''parity''.

Subsec. (b)(3)(A). Act July 3, 1948, §201(b), redefined ''carry-over'' in the case of corn, rice, and peanuts.

Subsec. (b)(3)(B). Act July 3, 1948, §201(c), redefined ''carry-over'' in the case of cotton.

Subsec. (b)(10). Act July 3, 1948, §201(d), redefined ''normal supply''.

Subsec. (b)(16). Act July 3, 1948, §201(e), redefined ''total supply''.

1942—Subsec. (b)(13)(B). Act July 9, 1942, §1(4), inserted ''or peanuts'' after ''cotton'' wherever appearing, and added a new sentence reading ''For 1942, the normal yield for any county, in the case of peanuts, shall be the average yield per acre for peanuts for the county, adjusted for abnormal conditions, during the years 1936–1940, inclusive, except that for any county in which the years 1935–1939, inclusive, are equally as representative, such period may be used in determining the normal yields for counties in the State''.

Subsec. (b)(13)(E). Act July 9, 1942, §1(5), struck out ''or'' after ''wheat'' and before ''cotton'' wherever appearing, inserted ''or peanuts'' after ''cotton'' wherever appearing, and inserted after first sentence ''For 1942, the normal yield for any farm, in the case of peanuts, shall be the average yield per acre of peanuts for the farm, adjusted for abnormal conditions, during the years 1936–1940, inclusive, except that for any county in which the years 1935–1939, inclusive, are equally as representative, such period may be used in determining normal yields for farms in the county''.

1941—Subsec. (b)(1)(B). Act April 3, 1941, §2, inserted ''or peanuts'' after ''cotton''.

Subsec. (b)(6)(C). Act Apr. 3, 1941, §3, added subpar. (C).

1940—Subsec. (a)(1). Act Nov. 22, 1940, §3, inserted ''and, in the case of Burley and flue-cured tobacco, shall be the period August 1934 to July 1939; except that the August 1919–July 1929 base period shall be used in allocating any funds appropriated prior to September 1, 1940'' after ''July, 1929'' in last sentence.

Subsec. (b)(3)(C). Act June 13, 1940, inserted exception.

Former subsec. (b)(6)(C), (D) were omitted in amendment to subsec. (b)(6) by act July 2, 1940.

Subsec. (b)(13)(A). Act July 2, 1940, §4, among other changes inserted ''or wheat'' after ''corn'' wherever appearing and substituted ''county'' for ''farm'' wherever appearing.

Subsec. (b)(13)(B). Act July 2, 1940, §5, among other changes, struck out ''or wheat'' before ''cotton'' and ''and, in the case of wheat but not in the case of cotton, for trends in yields, during the ten calendar years in the case of wheat, and'' after ''weather conditions''.

Subsec. (b)(13)(E). Act Nov. 25, 1940, in first sentence substituted ''in which such normal yield is determined'' for ''with respect to such normal yield is used in any computation authorized under this title''.

Subsec. (b)(15). Act Nov. 22, 1940, §§1, 4, among other changes substituted ''Fire-cured tobacco comprising types 21, 22, 23, and 24; Dark air-cured tobacco comprising types 35 and 36'' for ''Fire-cured and dark air cured tobacco comprising types 21, 22, 23, 24, 35, 36, and 37'' and inserted proviso at end of last sentence.

1938—Subsec. (b)(13). Act Apr. 7, 1938, substituted ''county'' for ''farm'' in subpars. (A) and (B) and added subpar. (E).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2 of Pub. L. 94–61 provided that: ''The amendment made by the first section of this Act [amending this section] shall become effective June 1, 1975''.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 405(b) of Pub. L. 91–524, as added by section 1(12) of Pub. L. 93–86, provided that the amendment made by that section is effective with respect to 1974 through 1977 crops.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 511(a) of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with the crop planted for harvest in 1966.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 323 of Pub. L. 87–703 provided that: ''The amendments to the Agricultural Adjustment Act of 1938, as amended, and to Public Law 74, Seventy-seventh Congress, as amended, made by sections 310 through 322 of this Act [enacting sections 1334b and 1339 of this title, amending this section and sections 1331 to 1336, 1340, 1371 and 1385 of this title, and repealing section 1337 of this title] shall be in effect only with respect to programs applicable to the crops planted for harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year''.

EFFECTIVE DATE OF 1949 AMENDMENT

Section 415(a), (b) of act Oct. 31, 1949, provided that: ''(a) Except as modified by this Act or by Public Law 272 [see Tables for classification], Eighty-first Congress, sections 201(b), 201(d), 201(e), 203, 207(a), and 208 of the Agricultural Act of 1948 [amending this section and sections 1312, 1322, and 1328 of this title] shall be effective for the purpose of taking any action with respect to the 1950 and subsequent crops upon the enactment of this Act [Oct. 31, 1949]. If the time within which any such action is required to be taken shall have elapsed prior to the enactment of this Act, such action shall be taken within thirty days after the enactment of the Act.

''(b) No provision of the Agricultural Act of 1948 shall be deemed to supersede any provision of Public Law 272, Eighty-first Congress.''

EFFECTIVE DATE OF 1948 AMENDMENT

Section 303 of act July 3, 1948, provided that: ''Titles II and III of this Act [amending this section and sections 602, 608c, 612c, 672, 1301a, 1302, 1312, 1322, 1328, 1333, 1335, 1336, 1343, 1345, 1355, and 1385 of this title and repealing sections 608e and 1322a of this title] shall take effect on January 1, 1950.''

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Bureau of Agricultural Economics transferred to other units of Department of Agriculture under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

RULEMAKING PROCEDURES

Section 1108(c) of Pub. L. 99–272 provided that: ''The Secretary of Agriculture shall implement sections 1102 through 1109, and the amendments made by such sections [enacting sections 1314g, 1314h, and 1445–3 of this title, amending this section and sections 1312, 1314c, 1314e, 1372, 1445, 1445–1, and 1445–2 of this title, and enacting provisions set out as notes under sections 1314c, 1314e, 1314g, 1314h, 1372, 1445, 1445–1, and 1445–2 of this title], without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary.''

STUDY OF METHODS OF IMPROVING PARITY FORMULA

Section 602 of act May 28, 1956, required the Secretary to make a thorough study of the possible methods of improving the parity formula and report thereon, with specific recommendations, including drafts of necessary legislation to carry out such recommendations, to Congress not later than Jan. 31, 1957.

TOBACCO DEFINITION UNAFFECTED BY ACREAGE-POUNDAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Authority or responsibility of Secretary of Agriculture under subsec. (b)(15) of this section with respect to treatment of different types of tobacco as different kinds of tobacco unaffected by acreage-poundage quotas and price support provisions, see note set out under section 1314c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 1111, 1301a, 1340, 1359jj, 1445, 1445–2 of this title; title 43 section 620c.

§ 1301a. References to parity prices, etc., in other laws after January 1, 1950

All references in other laws to—

(1) parity,

(2) parity prices,

(3) prices comparable to parity prices, or

(4) prices to be determined in the same manner as provided by this chapter prior to January 1, 1950 for the determination of parity prices,

with respect to prices for agricultural commodities and products thereof, shall after January 1, 1950 be deemed to refer to parity prices as determined in accordance with the provisions of section 1301(a)(1) of this title.

(July 3, 1948, ch. 827, title III, § 302(f), 62 Stat. 1258.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1948, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as an Effective Date of 1948 Amendment note under section 1301 of this title.

§ 1301b. Repealed. Pub. I. 85–835, title I, § 108, Aug. 28, 1958, 72 Stat. 993

Section, act Aug. 29, 1949, ch. 518, § 3(a), 63 Stat. 676, prescribed standard cotton grade for parity and price support purposes.

EFFECTIVE DATE OF REPEAL

Section 108 of Pub. L. 85–835 provided that the repeal of this section is effective with 1961 crop.

§ 1302. Repealed. Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057

Section, acts Feb. 16, 1938, ch. 30, title III, § 302, 52 Stat. 43; June 21, 1938, ch. 554, title V, § 502, 52 Stat. 820; July 3, 1948, ch. 827, title II, § 202(a), 62 Stat. 1252, related to price support of agricultural commodities.

§ 1303. Parity payments

If and when appropriations are made therefor, the Secretary is authorized and directed to

make payments to producers of corn, wheat, cotton, rice, or tobacco, on their normal production of such commodities in amounts which, together with the proceeds thereof, will provide a return to such producers which is as nearly equal to parity price as the funds so made available will permit. All funds available for such payments with respect to these commodities shall unless otherwise provided by law, be apportioned to these commodities in proportion to the amount by which each fails to reach the parity income. Such payments shall be in addition to and not in substitution for any other payments authorized by law.

(Feb. 16, 1938, ch. 30, title III, § 303, 52 Stat. 45.)

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Rental or benefit payments, see section 608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1150a.

§ 1304. Consumer safeguards

The powers conferred under this chapter shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this chapter it shall be the duty of the Secretary to give due regard to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producers and consumers.

(Feb. 16, 1938, ch. 30, title III, § 304, 52 Stat. 45.)

§ 1305. Transfer of acreage allotments or feed grain bases on public lands upon request of State agencies

Notwithstanding any other provision of law, the Secretary, upon the request of any agency of any State charged with the administration of the public lands of the State, may permit the transfer of acreage allotments or feed grain bases together with relevant production histories which have been determined pursuant to this chapter, or section 590p of title 16, from any farm composed of public lands to any other farm or farms in the same county composed of public lands: *Provided*, That as a condition for the transfer of any allotment or base an acreage equal to or greater than the allotment or base transferred prior to adjustment, if any, shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made. The Secretary shall prescribe regulations which he deems necessary for the administration of this section, which may provide for adjusting downward the size of the allotment or base transferred if the farm to which the allotment or base is transferred normally has a higher yield per acre for the commodity for which the allotment or base is determined, for reasonable limitations on the size of the resulting allotments and bases on farms to which transfers are made, taking into account the size of the allotments and bases on farms of similar size in the community, and for retransferring allotments or bases and relevant histories if the conditions of the transfers are not fulfilled.

(Pub. L. 89–321, title VII, § 706, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91–524, title IV, § 405(a), formerly § 405, title VI, § 606, Nov. 30, 1970, 84 Stat. 1366, 1378, renumbered § 405(a) and amended Pub. L. 93–86, § 1(12), Aug. 10, 1973, 87 Stat. 229.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93–86 struck out provision that term ''acreage allotments'' as used in this section includes the domestic allotment for wheat.

1970—Pub. L. 91–524 temporarily inserted reference to the Agricultural Act of 1949, as amended, and provided that ''acreage allotments'' includes farm base acreage allotments for upland cotton and domestic allotment for wheat. See Effective and Termination Dates of 1970 Amendment note below.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(12) of Pub. L. 93–86 provided that the amendment made by that section is effective with 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 405(a) and 606 of Pub. L. 91–524, as amended by section 1(12), (22) of Pub. L. 93–86, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

§ 1306. Projected yields; determination; base period

Notwithstanding any other provision of law, in the determination of farm yields the Secretary may use projected yields in lieu of normal yields. In the determination of such yields the Secretary shall take into account the actual yield proved by the producer for the base period used in determining the projected yield, and the projected yield shall not be less than such actual yield proved by the producer.

(Pub. L. 89–321, title VII, § 708, Nov. 3, 1965, 79 Stat. 1211; Pub. L. 91–524, title IV, § 405(b), as added Pub. L. 93–86, § 1(12), Aug. 10, 1973, 87 Stat. 229.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 91–524, § 405(b), as added by Pub. L. 93–86, temporarily inserted ''(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought,

flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period)'' after ''determining the projected yield''. See Effective and Termination Dates of 1973 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 405(b) of Pub. L. 91–524, as added by section 1(12) of Pub. L. 93–86, provided that the amendment made by that section is effective with respect to 1974 through 1977 crops.

§ 1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops

Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop of the commodities shall not exceed $20,000.

(2) The term ''payments'' as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation.

(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(4) The Secretary shall issue regulations defining the term ''person'' and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

(Pub. L. 91–524, title I, § 101, Nov. 30, 1970, 84 Stat. 1358; Pub. L. 93–86, § 1(1), Aug. 10, 1973, 87 Stat. 221; Pub. L. 95–113, title I, § 104, Sept. 29, 1977, 91 Stat. 919.)

REFERENCES IN TEXT

This Act, referred to in pars. (1) and (4), is Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, as amended, known as the Agricultural Act of 1970. Title IV of that Act enacted section 1334a–1 of this title, amended sections 1301, 1305, 1306, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, and 1445a of this title, and enacted provisions set out as notes under sections 1301, 1305, 1306, 1330 to 1334, 1335, 1336, 1338, 1339, and 1379c of this title. Title V of that Act amended section 1444b of this title and provisions set out as a note under section 1444b of this title. Title VI of that Act enacted sections 1342a, 1350a, and 2119 of this title, amended sections 1305, 1344b, 1350, 1374, 1378, 1379, 1385, 1427, 1428, 1444, and 1444a of this title, and enacted provisions set out as notes under sections 1305, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1377, 1378, 1379, 1385, 1427, 1428, 1444, and 1446d of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

The Food and Agriculture Act of 1977, referred to in par. (1), is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913. Title IV of the Food and Agriculture Act of 1977 enacted section 1445b of this title, amended sections 1385, 1427, and 1428 of this title, and enacted provisions set out as notes under sections 1330, 1331, 1379d, 1385, 1427, 1428, 1445a, and 1445b of this title. Title V of the Food and Agriculture Act of 1977 enacted section 1444c of this title and enacted provisions set out as notes under sections 1444b and 1444c of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1977—Par. (1). Pub. L. 95–113 substituted ''to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop'' for ''to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops''.

1973—Par. (1). Pub. L. 93–86 substituted ''one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops of the Commodities shall not exceed $20,000'' for ''each of the annual programs established by titles IV, V, and VI of this Act for the 1971, 1972, or 1973 crop of the commodity shall not exceed $55,000''.

Par. (2). Pub. L. 93–86 substituted ''shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation'' for ''includes price-support payments, set-aside payments, diversion payments, public access payments, and marketing certificates, but does not include loans or purchases''.

Par. (3). Pub. L. 93–86 reenacted par. (3) without change.

Par. (4). Pub. L. 93–86 inserted provision that the rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1901 of Pub. L. 95–113 provided that: ''Except as otherwise provided herein, the provisions of this Act [see Short Title of 1977 Amendment note set out under section 1281 of this title] shall become effective October 1, 1977.''

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Pub. L. 95–156, Nov. 8, 1977, 91 Stat. 1264, provided: ''That, notwithstanding any other provision of law, the term 'payments' as used in section 101 of the Agricultural Act of 1970, as amended [this section], and section 101(g)(13) of the Agricultural Act of 1949, as amended [section 1441(g)(13) of this title], shall not include any part of any payment which is determined by the Sec-

retary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title; title 16 section 3834.

§ 1308. Payment limitations: production flexibility contracts, marketing loan gains and deficiencies, contract commodities and oilseeds; regulations

Notwithstanding any other provision of law:

(1) Limitation on payments under production flexibility contracts

The total amount of contract payments made under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

(2) Limitation on marketing loan gains and loan deficiency payments

The total amount of the payments specified in paragraph (3) that a person shall be entitled to receive under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] for 1 or more contract commodities and oilseeds during any crop year may not exceed $75,000.

(3) Description of payments subject to limitation

The payments referred to in paragraph (2) are the following:

(A) Any gain realized by a producer from repaying a marketing assistance loan under section 131 of the Agricultural Market Transition Act [7 U.S.C. 7231] for a crop of any loan commodity at a lower level than the original loan rate established for the loan commodity under section 132 of the Act [7 U.S.C. 7232].

(B) Any loan deficiency payment received for a loan commodity under section 135 of the Act [7 U.S.C. 7235].

(4) Definitions

In this title,[1] the terms ''contract commodity'', ''contract payment'', ''loan commodity'', ''oilseed'', and ''production flexibility contract'' have the meaning given those terms in section 102 of the Agricultural Market Transition Act [7 U.S.C. 7202].

(5)(A) The Secretary shall issue regulations—

(i) defining the term ''person''; and

(ii) prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of the limitation established under this section.

Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1308–1 through 1308–3 of this title.

(B)(i) For the purposes of the regulations issued under subparagraph (A), subject to clause (ii), the term ''person'' means—

(I) an individual, including any individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary);

(II) a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity (as determined by the Secretary), including any such entity or organization participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar entity (as determined by the Secretary); and

(III) a State, political subdivision, or agency thereof.

(ii)(I) Such regulations shall provide that the term ''person'' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.

(II) In defining the term ''person'' as it will apply to irrevocable trusts and estates, the Secretary shall ensure that fair and equitable treatment is given to trusts and estates and the beneficiaries thereof.

(III) Notwithstanding any other provision of law, to be considered a separate person under this section, an irrevocable trust (other than a trust established prior to January 1, 1987) must not allow for modification or termination of the trust by the grantor, allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust, or provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established except in cases where the transfer is contingent on the remainder beneficiary achieving at least the age of majority or is contingent on the death of the grantor or income beneficiary.

(iii) The regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that, for the purpose of the application of the limitations established under this section—

(I) in the case of any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by the spouse so long as the operation remains as a separate farming operation; and

(II) at the option of the Secretary, in the case of any married couple consisting of spouses who do not hold, directly or indirectly, a substantial beneficial interest in more than one entity (including the spouses themselves) engaged in farm operations that also receives farm program payments (as described in paragraphs (1) and (2)) as separate persons, the spouses may be considered as separate persons if each spouse meets the other requirements established under this section and section 1308–1 of this title to be considered to be a separate person.

[1] See References in Text note below.

(C) The regulations issued by the Secretary on December 18, 1970, under section 1307 of this title shall be used to establish the percentage ownership of a corporation by the stockholders of such corporation for the purpose of determining whether such corporation and stockholders are separate persons under this section.

(D) Any person that conducts a farming operation to produce a crop subject to limitations under this section as a tenant that rents the land for cash (or a crop share guaranteed as to the amount of the commodity to be paid in rent) and that makes a significant contribution of active personal management but not of personal labor shall be ineligible to receive any payment specified in paragraph (1) or (2) or subtitle D of title XII [16 U.S.C. 3831 et seq.] with respect to such land unless the tenant makes a significant contribution of equipment used in the farming operation.

(E) The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive. In the implementation of the preceding sentence, the addition of a family member to a farming operation under the criteria set out in section 1308–1(b)(1)(B) of this title shall be considered a bona fide and substantive change in the farming operation.

(6) The provisions of this section that limit payments to any person shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.

(7) Regulations of the Secretary shall establish time limits for the various steps involved with notice, hearing, decision, and the appeals procedure in order to ensure expeditious handling and settlement of payment limitation disputes. Notwithstanding any other provision of law, actions taken by an individual or other entity in good faith on action or advice of an authorized representative of the Secretary may be accepted as meeting the requirement under this section or section 1308–1 of this title, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.

(Pub. L. 99–198, title X, § 1001, Dec. 23, 1985, 99 Stat. 1444; Pub. L. 99–500, § 108(a), Oct. 18, 1986, 100 Stat. 1783–346, and Pub. L. 99–591, § 108(a), Oct. 30, 1986, 100 Stat. 3341–346; Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 428; Pub. L. 100–203, title I, §§ 1301(a)(1), (2), 1303, 1305(c), 1307, Dec. 22, 1987, 101 Stat. 1330–12, 1330–16, 1330–18, 1330–19; Pub. L. 101–217, §§ 1, 2, Dec. 11, 1989, 103 Stat. 1857; Pub. L. 101–624, title XI, § 1111(a), (c), (e), Nov. 28, 1990, 104 Stat. 3497–3499; Pub. L. 102–237, title I, § 118(b), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 103–66, title I, § 1101(b)(3)(A), Aug. 10, 1993, 107 Stat. 314; Pub. L. 104–127, title I, § 115(b), Apr. 4, 1996, 110 Stat. 902.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in pars. (1) and (2), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§ 7201 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

This title, referred to in par. (4), is title X of Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1444, as amended. For complete classification of title X to the Code, see Tables.

Subtitle D of title XII, referred to in par. (5)(D), means subtitle D of title XII of the Food Security Act of 1985, Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended, which is classified generally to subchapter IV (§ 3831 et seq.) of chapter 58 of Title 16, Conservation.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1308, Pub. L. 97–98, title XI, § 1101, Dec. 22, 1981, 95 Stat. 1263; Pub. L. 98–88, § 6, Aug. 26, 1983, 97 Stat. 499, related to programs for 1982 through 1985 crops.

Another prior section 1308, Pub. L. 95–113, title I, § 101, Sept. 29, 1977, 91 Stat. 917; Pub. L. 96–213, § 5, Mar. 18, 1980, 94 Stat. 120, related to programs for 1978 through 1981 crops.

AMENDMENTS

1996—Pars. (1) to (4). Pub. L. 104–127 added pars. (1) to (4) and struck out former pars. (1) to (4) which established limitations on payments under wheat, feed grains, upland cotton, extra long staple cotton, honey, and rice programs for 1987 through 1997 crops.

1993—Pars. (1)(A), (B), (2)(A). Pub. L. 103–66 substituted ''1997'' for ''1995''.

1991—Par. (2)(B)(iv). Pub. L. 102–237 inserted ''section'' before ''107B(c)(1)''.

1990—Par. (1). Pub. L. 101–624, § 1111(a)(1), designated existing provisions as subpar. (A), substituted ''1995'' for ''1990'', and added subpar. (B).

Par. (2)(A). Pub. L. 101–624, § 1111(a)(2), substituted ''1991 through 1995 crops'' for ''1987 through 1990 crops'' and substituted ''and'' for ''honey, and (with respect to clause (iii)(II) of subparagraph (B))'' after ''rice,''.

Par. (2)(B)(iii). Pub. L. 101–624, § 1111(a)(3)(A), added cl. (iii) and struck out former cl. (iii) which read as follows: ''(iii)(I) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, rice, or honey at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), 101A(a)(5), or 201(b)(2), respectively, of the Agricultural Act of 1949 or (II) any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower level than the original loan level established under the Agricultural Act of 1949;''

Par. (2)(B)(iv). Pub. L. 101–624, § 1111(a)(3)(B), substituted ''107B(c)(1) or 105B(c)(1)'' for ''section 107D(c)(1) or 105C(c)(1)'', and ''section 107B(a)(3) or 105B(a)(3)'' for ''section 107D(a)(4) or 105C(a)(3)''.

Par. (2)(B)(v). Pub. L. 101–624, § 1111(a)(3)(C), added cl. (v) and struck out former cl. (v) which read as follows: ''(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of the Agricultural Act of 1949; and''.

Par. (2)(B)(vi). Pub. L. 101–624, § 1111(a)(3)(D), substituted ''section 107B(f), 105B(f), 103B(f), or 101B(f)'' for ''section 107D(g), 105C(g), 103A(g), or 101A(g)''.

Par. (5)(B)(ii)(III). Pub. L. 101–624, § 1111(e), added subcl. (III).

Par. (5)(B)(iii). Pub. L. 101–624, § 1111(c), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''Such regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that any married couple consisting of spouses who, prior to their mar-

riage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse so long as such operation remains as a separate farming operation, for the purposes of the application of the limitations under this section.''

1989—Par. (5)(D). Pub. L. 101–217, § 2, amended subpar. (D) generally, striking out cl. (i) designation, substituting ''Any'' for ''Except as provided in clause (ii), any'' and ''ineligible to receive any payment specified in paragraph (1) or (2) or subtitle D of title XII with respect to such land'' for ''considered the same person as the landlord'', and struck out cls. (ii) and (iii) which read as follows:

''(ii) A tenant that because of any act or failure to act would otherwise be considered the same person as the landlord under clause (i) shall not be considered the same person as the landlord if the Secretary has at any time made a determination, for purposes of this section, regarding the number of persons with respect to the tenant's operation on such land for the 1989 crop year and the landlord did not consent to or knowingly participate in such act or failure to act.

''(iii) Any tenant that would be considered to be the same person as the landlord but for the operation of clause (ii) shall be eligible to receive any payment specified in paragraph (1) or (2) or subtitle D of title XII with respect to such land only to the extent that the tenant would be eligible for such payments if the tenant were to be considered the same person as the landlord under the regulations in place immediately prior to the enactment of this subparagraph.''

Pub. L. 101–217, § 1, in temporarily amending subpar. (D) generally, designated existing provisions as cl. (i) and added cls. (ii) and (iii). See Effective and Termination Dates of 1989 Amendment note below.

1987—Par. (1). Pub. L. 100–203, § 1301(a)(1), substituted ''Subject to sections 1308–1 through 1308–3 of this title, for each'' for ''For each''.

Par. (2)(A). Pub. L. 100–203, § 1301(a)(2)(A), substituted ''Subject to sections 1308–1 through 1308–3 of this title, for each'' for ''For each''.

Par. (2)(C). Pub. L. 100–203, § 1307, struck out cl. (ii) designation, and struck out cl. (i) which read as follows: ''The total amount of loans on a crop of honey that a person may have outstanding at any one time under the annual program established for such crop under the Agricultural Act of 1949 may not exceed $250,000 less the amount of payments, as described in paragraph (1) and subparagraphs (A) and (B) of this paragraph, received by such person for the crop year involved.''

Pub. L. 100–203, § 1301(a)(2)(B), which directed substitution of ''Subject to sections 1308–1 through 1308–3 of this title, the total'' for ''The total'' could not be executed in view of amendments by Pub. L. 100–71 and section 1307 of Pub. L. 100–203.

Pub. L. 100–71 designated existing provision as cl. (i) and added cl. (ii).

Par. (5)(A). Pub. L. 100–203, § 1303(a)(1), (2), inserted after first sentence ''Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1308–1 through 1308–3 of this title'' and struck out at end ''Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.''

Par. (5)(B). Pub. L. 100–203, § 1303(a)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

Par. (5)(C). Pub. L. 100–203, § 1303(a)(3), redesignated subpar. (B) as (C).

Par. (5)(D), (E). Pub. L. 100–203, § 1303(a)(4), added subpars. (D) and (E).

Par. (6). Pub. L. 100–203, § 1303(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''The provisions of this section that limit payments to any person shall not be applicable to lands or animals owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed or animals are husbanded primarily in the direct furtherance of a public function, as determined by the Secretary.''

Par. (7). Pub. L. 100–203, § 1305(c), added par. (7).

1986—Par. (1). Pub. L. 99–500 and Pub. L. 99–591, § 108(a)(1), in temporarily amending par. (1) generally, substituted provision limiting, for each of the 1987 through 1990 crops, the total amount of deficiency payments, excluding deficiency payments described in par. (2)(B)(I)(iv) and land diversion payments that any one person be entitled to as not to exceed $50,000 for provision limiting, for each of the 1986 through 1990 crops, the total amount of payments, excluding disaster payments, that any one person be entitled to as not to exceed $50,000. See Effective and Termination Dates of 1986 Amendment note below.

Par. (2). Pub. L. 99–500 and Pub. L. 99–591, § 108(a)(1), in temporarily amending par. (2) generally, designated existing provision as subpar. (A), and in subpar. (A) as so designated, substituted provision limiting, for each of the 1987 through 1990 crops, the total amount of payments set forth in subpar. (B) that any one person be entitled to as not to exceed $250,000 and inserting honey as an eligible crop for provision limiting, for each of the 1986 through 1990 crops, the total amount of disaster payments not any one person be entitled to as not to exceed $100,000, and added subpars. (B) and (C). See Effective and Termination Dates of 1986 Amendment note below.

Par. (3). Pub. L. 99–500 and Pub. L. 99–591, § 108(a)(1), temporarily substituted provision authorizing the Secretary, if he determines that a limitation will have an adverse effect on a program, to adjust upward such limitation as appropriate or necessary for provision specifying what is not included within the term ''payments'' as used in this section. See Effective and Termination Dates of 1986 Amendment note below.

Par. (5)(A). Pub. L. 99–500 and Pub. L. 99–591, § 108(a)(2), temporarily inserted provision that the term ''person'' not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers. See Effective and Termination Dates of 1986 Amendment note below.

Par. (6). Pub. L. 99–500 and Pub. L. 99–591, § 108(a)(3), temporarily substituted ''lands or animals owned'' for ''lands owned'' and inserted ''or animals are husbanded''. See Effective and Termination Dates of 1986 Amendment note below.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1 of Pub. L. 101–217 provided that the amendment made by that section is effective only for 1989 crops.

Section 2 of Pub. L. 101–217, as amended by Pub. L. 101–624, title XI, § 1111(i), Nov. 28, 1990, 104 Stat. 3500, provided that the amendment made by that section is effective beginning with 1990 crops.

EFFECTIVE DATE OF 1987 AMENDMENT

Sections 1301(a) and 1303 of Pub. L. 100–203 provided that the amendments made by sections 1301(a)(1), (2) and 1303 of Pub. L. 100–203 are effective beginning with 1989 crops.

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Section 108(a) of Pub. L. 99–500 and Pub. L. 99–591 provided that the amendment made by that section is effective with respect to each of 1987 through 1990 crops.

Section 108(b) of Pub. L. 99–500 and Pub. L. 99–591 provided that: ''The amendments made by subsection (a)

[amending this section] shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act [Oct. 18, 1986].''

EQUITABLE RELIEF

Section 3 of Pub. L. 101–217 provided that: ''Nothing in this Act [amending this section and enacting provisions set out as notes under this section] shall be construed in any way to limit the authority of the Secretary of Agriculture to provide equitable relief under any provision of law.''

PAYMENT PROVISIONS EDUCATION PROGRAM

Section 1304(a) of Pub. L. 100–203 provided that:

''(1) IN GENERAL.—The Secretary of Agriculture shall implement a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions under sections 1001 through 1001C of the Food Security Act of 1985 [sections 1808 to 1308–3 of this title].

''(2) TRAINING.—The education program shall provide training to such personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act [enacting section 1308–1 of this title, amending this section, and enacting provisions set out as notes under this section and section 1308–1 of this title].

''(3) IMPLEMENTATION.—The education program shall be fully implemented, and the training completed, not later than 30 days after the date final regulations are issued to carry out the amendments made by this subtitle [enacting sections 1308–1 to 1308–3 of this title and amending this section and section 1308–1 of this title].

''(4) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this subsection through the Commodity Credit Corporation.''

REGULATIONS TO CARRY OUT 1987 AMENDMENTS; TRANSITION RULES; EQUITABLE ADJUSTMENTS

Section 1305(a), (b) of Pub. L. 100–203 provided that:

''(a) REGULATIONS.—

''(1) ISSUANCE.—The Secretary of Agriculture shall issue—

''(A) proposed regulations to carry out the amendments made by this subtitle [enacting sections 1308–1 to 1308–3 of this title and amending this section and section 1308–1 of this title] not later than April 1, 1988; and

''(B) final regulations to carry out such amendments not later than August 1, 1988.

''(2) FIELD INSTRUCTIONS.—Any field instructions relating to, or other supplemental clarifications of, the regulations issued under sections 1001 through 1001C of the Food Security Act of 1985 [sections 1308 to 1308–3 of this title] shall not be used in resolving issues involved in the application of the payment limitations or restrictions under such sections or regulations to individuals, other entities, or farming operations until copies of the publication are made available to the public.

''(b) ALLOWANCE FOR EQUITABLE REORGANIZATIONS.—To allow for the equitable reorganization of farming operations to conform to the limitations and restrictions contained in the amendments made to the Food Security Act of 1985 by this subtitle [enacting sections 1308–1 to 1308–3 of this title and amending this section and section 1308–1 of this title] in cases in which the application of such limitations and restrictions will reduce payments to the farming operation (as determined by the Secretary), the Secretary may waive the application of the substantive change rule under section 1001(5)(E) [section 1308(5)(E) of this title], as added by section 1303 of this Act, or any regulation of the Secretary containing a comparable rule, to any reorganization applied for prior to the final date when producers are eligible to enter into contracts to participate in the commodity programs established for the 1989 crop year, to the extent the Secretary determines appropriate to facilitate any such equitable reorganizations that does not increase such payments.''

CONSERVATION RESERVE APPLICATION

Section 1305(d) of Pub. L. 100–203 provided that: ''Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001 [section 1308(5)–(7) of this title], as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 [sections 1308–1 to 1308–3 of this title] shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3831 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act [Dec. 22, 1987], except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.''

REVISION OF REGULATIONS

Section 108(c) of Pub. L. 99–500 and Pub. L. 99–591 provided that:

''(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act [Oct. 18, 1986] that define 'person' under section 1001 of the Food Security Act of 1985 [this section] and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

''(B) The Secretary also shall review the amendments to section 1001 of the Food Security Act of 1985 made by this section.

''(2) Based on the reviews conducted under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, not later than March 1, 1987, a report on such reviews and—

''(A) with respect to the matters reviewed under paragraph (1)(A), proposed regulations or amendments to regulations, to take effect not earlier than October 1, 1987, that will meet the object with respect to limitations specified in paragraph (1)(A); and

''(B) with respect to the matters reviewed under paragraph (1)(B), recommendations on legislative changes to section 1001 of the Food Security Act of 1985 that the Secretary determines are necessary or appropriate.''

SEPARATE PERSON STATUS AMONG FAMILY MEMBERS

Pub. L. 99–198 (last sentence), as added by Pub. L. 99–500, § 101(a) [title VI, § 636], Oct. 18, 1986, 100 Stat. 1783, 1783–34, and Pub. L. 99–591, § 101(a) [title VI, § 636], Oct. 30, 1986, 100 Stat. 3341, 3341–34, provided that: ''Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308–1, 1308–2, 1308–4, 1308a, 1441, 1471g, 7213, 7215, 7333 of this title; title 16 section 2106a.

§ 1308–1. Prevention of creation of entities to qualify as separate persons; payments limited to active farmers

(a) Prevention of creation of entities to qualify as separate persons

For the purposes of preventing the use of multiple legal entities to avoid the effective application of the payment limitations under section 1308 of this title:

(1) In general

A person (as defined in section 1308(5)(B)(i) of this title) that receives farm program payments (as described in paragraphs (1) and (2) of this section as being subject to limitation) for a crop year may not also hold, directly or indirectly, substantial beneficial interests in more than two entities (as defined in section 1308(5)(B)(i)(II) of this title) engaged in farm operations that also receive such payments as separate persons, for the purposes of the application of the limitations under section 1308 of this title. A person that does not receive such payments for a crop year may not hold, directly or indirectly, substantial beneficial interests in more than three entities that receive such payments as separate persons, for the purposes of the application of the limitations under section 1308 of this title.

(2) Minimal beneficial interests

For the purpose of this subsection, a beneficial interest in any entity that is less than 10 percent of all beneficial interests in such entity combined shall not be considered a substantial beneficial interest, unless the Secretary determines, on a case-by-case basis, that a smaller percentage should apply to one or more beneficial interests to ensure that the purpose of this subsection is achieved.

(3) Notification by entities

To facilitate administration of this subsection, each entity receiving such payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations under this subsection. Each such entity receiving payments shall provide to the Secretary of Agriculture, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.

(4) Notification of interest

(A) In general

If a person is notified that the person holds substantial beneficial interests in more than the number of entities receiving payments that is permitted under this subsection for the purposes of the application of the limitations under section 1308 of this title, the person immediately shall notify the Secretary, designating those entities that should be considered as permitted entities for the person for purposes of applying the limitations. Each remaining entity in which the person holds a substantial beneficial interest shall be subject to reductions in the payments to the entity subject to limitation under section 1308 of this title in accordance with this subparagraph. Each such payment applicable to the entity shall be reduced by an amount that bears the same relation to the full payment that the person's beneficial interest in the entity bears to all beneficial interests in the entity combined. Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.

(B) Notice not provided

If the person does not so notify the Secretary, all entities in which the person holds substantial beneficial interests shall be subject to reductions in the per person limitations under section 1308 of this title in the manner described in subparagraph (A). Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.

(b) Payments limited to active farmers

(1) In general

To be separately eligible for farm program payments (as described in paragraphs (1) and (2) of section 1308 of this title as being subject to limitation) with respect to a particular farming operation (whether in the person's own right or as a partner in a general partnership, a grantor of a revocable trust, a participant in a joint venture, or a participant in a similar entity (as determined by the Secretary) that is the producer of the crops involved), a person must be an individual or entity described in section 1308(5)(B)(i) of this title and actively engaged in farming with respect to such operation, as provided under paragraphs (2), (3), and (4).

(2) General classes actively engaged in farming

For the purposes of paragraph (1), except as otherwise provided in paragraph (3):

(A) Individuals

An individual shall be considered to be actively engaged in farming with respect to a farm operation if—

(i) the individual makes a significant contribution (based on the total value of the farming operation) of—

(I) capital, equipment, or land; and

(II) personal labor or active personal management;

to the farming operation; and

(ii) the individual's share of the profits or losses from the farming operation is commensurate with the individual's contributions to the operation; and

(iii) the individual's contributions are at risk.

(B) Corporations or other entities

A corporation or other entity described in section 1308(5)(B)(i)(II) of this title shall be considered as actively engaged in farming with respect to a farming operation if—

(i) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

(iii) the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity.

(C) Entities making significant contributions

If a general partnership, joint venture, or similar entity (as determined by the Secretary) separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved.

(D) Equipment and personal labor

In making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

(3) Special classes actively engaged in farming

Notwithstanding paragraph (2), the following persons shall be considered to be actively engaged in farming with respect to a farm operation:

(A) Landowners

A person that is a landowner contributing the owned land to the farming operation if the landowner receives rent or income for such use of the land based on the land's production or the operation's operating results, and the person meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A).

(B) Family members

With respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution (based on the total value of the farming operation) of active personal management or personal labor and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A). For the purposes of the preceding sentence, the term ''family member'' means an individual to whom another family member in the farming operation is related as lineal ancestor, lineal descendant, or sibling (including the spouses of those family members who do not make a significant contribution themselves).

(C) Sharecroppers

A sharecropper who makes a significant contribution of personal labor to the farming operation and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A).

(4) Persons not actively engaged in farming

For the purposes of paragraph (1), except as provided in paragraph (3), the following persons shall not be considered to be actively engaged in farming with respect to a farm operation:

(A) Landlords

A landlord contributing land to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for such use of the land.

(B) Other persons

Any other person, or class of persons, determined by the Secretary as failing to meet the standards set out in paragraphs (2) and (3).

(5) Custom farming services

A person receiving custom farming services will be considered separately eligible for payment limitation purposes if such person is actively engaged in farming based on paragraphs (1) through (3). No other rules with respect to custom farming shall apply.

(6) Growers of hybrid seed

To determine whether a person growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(Pub. L. 99–198, title X, § 1001A, as added and amended Pub. L. 100–203, title I, §§ 1301(a)(3), 1302, Dec. 22, 1987, 101 Stat. 1330–12, 1330–14; Pub. L. 101–624, title XI, § 1111(d), (f), Nov. 28, 1990, 104 Stat. 3498, 3499; Pub. L. 102–237, title I, § 118(c), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 104–127, title I, § 115(c)(1), Apr. 4, 1996, 110 Stat. 903.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–127, § 115(c)(1)(A), struck out ''under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)'' before ''may not also hold''.

Subsec. (b)(1). Pub. L. 104–127, § 115(c)(1)(B), struck out ''under the Agricultural Act of 1949'' before ''with respect to a particular''.

1991—Subsec. (a)(2). Pub. L. 102–237 struck out ''0 to'' after ''less than''.

1990—Subsec. (a)(2). Pub. L. 101–624, § 1111(f), substituted ''0 to 10 percent'' for ''10 percent''.

Subsec. (b)(6). Pub. L. 101–624, § 1111(d), added par. (6).

1987—Subsec. (b). Pub. L. 100–203, § 1302, added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 1302 of Pub. L. 100–203 provided that the amendment made by that section is effective beginning with 1989 crops.

EFFECTIVE DATE

Section 1301(a) of Pub. L. 100–203 provided that this section is effective beginning with 1989 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1308–2, 1308–4, 7215 of this title.

§ 1308–2. Schemes or devices

If the Secretary of Agriculture determines that any person has adopted a scheme or device to evade, or that has the purpose of evading, section 1308, 1308–1, or 1308–3 of this title, such person shall be ineligible to receive farm program payments (as described in paragraphs (1) and (2) of section 1308 of this title as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.

(Pub. L. 99–198, title X, § 1001B, as added Pub. L. 100–203, title I, § 1304(b), Dec. 22, 1987, 101 Stat. 1330–17.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section 1304(b) of Pub. L. 100–203 provided that this section is effective beginning with the 1989 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1308–4, 7215 of this title.

§ 1308–3. Foreign persons made ineligible for program benefits

Notwithstanding any other provision of law:

(a) In general

Any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be ineligible to receive any type of loans or payments made available under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.], the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.), or under any contract entered into under title XII [16 U.S.C. 3801 et seq.], with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

(b) Corporations or other entities

For purposes of subsection (a) of this section, a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], unless such persons provide a substantial amount of personal labor in the production of crops on such farm. Notwithstanding the foregoing provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments, loans, and other benefits in an amount determined by the Secretary to be representative of the percentage interests of the entity that is owned by citizens of the United States and aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act.

(c) Prospective application

No person shall become ineligible under this section for production adjustment payments, price support program loans, payments or benefits as the result of the production of a crop of an agricultural commodity planted, or commodity program or conservation reserve contract entered into, before December 22, 1987.

(Pub. L. 99–198, title X, § 1001C, as added Pub. L. 100–203, title I, § 1306, Dec. 22, 1987, 101 Stat. 1330–19; amended Pub. L. 101–624, title XI, § 1111(b), Nov. 28, 1990, 104 Stat. 3498; Pub. L. 103–66, title I, § 1101(b)(3)(B), Aug. 10, 1993, 107 Stat. 314; Pub. L. 104–127, title I, § 115(c)(2), Apr. 4, 1996, 110 Stat. 903.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsecs. (a) and (b), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Agricultural Market Transition Act, referred to in subsec. (a), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§ 7201 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Food Security Act of 1985, referred to in subsec. (a), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the ''Sodbuster Law'', is classified principally to chapter 58 (§ 3801 et seq.) of Title 16, Conservation. Subtitle D of title XII of the Act is classified generally to subchapter IV (§ 3831 et seq.) of chapter 58 of Title 16. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 substituted ''Any person'' for ''For each of the 1991 through 1997 crops, any person'', substituted ''loans or payments made available under the Agricultural Market Transition Act,'' for ''production adjustment payments, price support program loans, payments, or benefits made avail-

able under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.),'', and struck out ''during the 1989 through 1997 crop years'' before '', with respect to any commodity produced''.

1993—Subsec. (a). Pub. L. 103–66 substituted ''1997'' for ''1995'' in two places.

1990—Subsec. (a). Pub. L. 101–624 substituted ''1991 through 1995 crops'' for ''1989 and 1990 crops'' and inserted '', or under any contract entered into under title XII during the 1989 through 1995 crop years,'' after ''(16 U.S.C. 3831 et seq.)''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE

Section 1306 of Pub. L. 100–203 provided that this section is effective beginning with 1989 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 1308–2, 1308–4, 7215 of this title.

§ 1308–4. Education program

(a) In general

The Secretary shall carry out a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of county and State committees established under section 590h(b) of title 16, for the purpose of fostering more effective and uniform application of the payment limitations and restrictions established under sections 1308 through 1308–3 of this title.

(b) Training

The education program shall provide training to the personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1308 through 1308–3 of this title.

(c) Administration

The State office of the Agricultural Stabilization and Conservation Service shall make the initial determination concerning the application of payment limitations and restrictions established under sections 1308 through 1308–3 of this title to farm operations consisting of more than 5 persons, subject to review by the Secretary.

(d) Commodity Credit Corporation

The Secretary shall carry out the program provided under this section through the Commodity Credit Corporation.

(Pub. L. 99–198, title X, § 1001D, as added Pub. L. 101–624, title XI, § 1111(g), Nov. 28, 1990, 104 Stat. 3499.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1308–5. Treatment of multiyear program contract payments

(a) In general

Notwithstanding any other provision of law, in the event of a transfer of ownership of land (or an ownership interest in land) by way of devise or descent, the Secretary of Agriculture may, if the new owner succeeds to the prior owner's contract entered into under title XII,[1] make payments to the new owner under such contract without regard to the amount of payments received by the new owner under any contract entered into under title XII[1] executed prior to such devise or descent.

(b) Limitation

Payments made pursuant to this section shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

(Pub. L. 99–198, title X, § 1001E, as added Pub. L. 101–624, title XI, § 1111(h), Nov. 28, 1990, 104 Stat. 3499.)

REFERENCES IN TEXT

Title XII, referred to in subsec. (a), is title XII of the Food Security Act of 1985, Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1504, as amended, popularly known as the ''Sodbuster Law'', which is classified principally to chapter 58 (§ 3801 et seq.) of Title 16, Conservation. For complete classification of title XII to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1308a. Cost reduction options

(a) Authority of Secretary to take action

Notwithstanding any other provision of law, whenever the Secretary of Agriculture determines that an action authorized under subsection (c), (d), or (e) of this section will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small- and medium-sized producers participating in such program, the Secretary shall take such action with respect to the commodity program involved.

(b) Reservation of Secretary's right to reopen or change contracts if producer agrees

In the announcement of the specific provisions of any commodity program administered by the Secretary of Agriculture, the Secretary shall include a statement setting forth which, if any, of the actions are to be initially included in the program, and a statement that the Secretary reserves the right to initiate at a later date any action not previously included but authorized by

[1] See References in Text note below.

this section, including the right to reopen and change a contract entered into by a producer under the program if the producer voluntarily agrees to the change.

(c) Purchase from other sources of commodities covered by nonrecourse loans

When a nonrecourse loan program is in effect for a crop of a commodity, the Secretary may enter the commercial market to purchase such commodity if the Secretary determines that the cost of such purchases plus appropriate carrying charges will probably be less than the comparable cost of later acquiring the commodity through defaults on nonrecourse loans under the program.

(d) Reduction in settlement price of nonrecourse loans

When the domestic market price of a commodity for which a nonrecourse loan program (including the program authorized by section 1445e of this title) is in effect is insufficient to cover the principal and accumulated interest on a loan made under such program, thereby encouraging default by a producer, the Secretary may provide for settlement of such loan and redemption by the producer of the commodity securing such loan for less than the total of the principal and all interest accumulated thereon if the Secretary determines that such reduction in the settlement price will yield benefits to the Federal Government due to—

(1) receipt by the Federal Government of a portion rather than none of the accumulated interest;

(2) avoidance of default; or

(3) elimination of storage, handling, and carrying charges on the forfeited commodity.

(e) Reopening of production control or loan programs to allow for payment in kind

When a production control or loan program is in effect for a crop of a major agricultural commodity, the Secretary may at any time prior to harvest reopen the program to participating producers for the purpose of accepting bids from producers for the conversion of acreage planted to such crop to diverted acres in return for payment in kind from Commodity Credit Corporation surplus stocks of the commodity to which the acreage was planted, if the Secretary determines that (1) changes in domestic or world supply or demand conditions have substantially changed after announcement of the program for that crop, and (2) without action to further adjust production, the Federal Government and producers will be faced with a burdensome and costly surplus. Such payments in kind shall not be included within the payment limitation of $50,000 per person established under section 1308 of this title, but shall be limited to a total $20,000 per year per producer for any one commodity.

(f) Other authorities of Secretary not affected

The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary under any other provision of law.

(Pub. L. 99–198, title X, § 1009, Dec. 23, 1985, 99 Stat. 1453; Pub. L. 101–134, § 3, Oct. 30, 1989, 103 Stat. 781.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1989—Subsec. (d). Pub. L. 101–134, in introductory provisions, inserted ''(including the program authorized by section 1445e of this title)'' after ''nonrecourse loan program'' and substituted ''benefits'' for ''savings'' and struck out concluding provisions which read as follows: ''but the Secretary may not reduce the settlement price to less than the principal due on the loan''.

§ 1309. Normally planted acreage and target prices

(a) Authorized planted acreage for 1982 through 1995 crops of wheat and feed grains as prerequisite for loan, etc.; eligibility; determinations; records

Notwithstanding any other provision of law, whenever a set-aside program is in effect for one or more of the 1982 through 1995 crops of wheat and feed grains, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments for such crops under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers and reduced by any set-aside or diverted acreage. Such normal crop acreage for any crop year shall be determined as provided by the Secretary. The Secretary may require producers participating in the program to keep such records as the Secretary determines necessary to assist in making such determination.

(b) Established price payments

Notwithstanding any other provision of law—

(1) Whenever the Secretary, for one or more of the 1982 through 1995 crops of wheat and feed grains, requires that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary in accordance with subsection (a) of this section, the Secretary may increase the established price payments for any such commodity by such amount (or if there are no such payments in effect for such crop by providing for payments in such amount) as the Secretary determines appropriate to compensate producers for not exceeding the acreage on the farm normally planted to crops designated by the Secretary and participation in any required set-aside with respect to such commodity.

(2) In determining the amount of any payments for any commodity under this subsection, the Secretary shall take into account changes in the costs of production resulting from not exceeding the acreage on the farm normally planted to crops designated by the Secretary and participation in any required set-aside with respect to such commodity.

(3) If payments are provided for any commodity under this subsection, the Secretary may provide for payments for any other commodity in such amount as the Secretary determines necessary for effective operation of the program.

(4) The Secretary shall adjust any payments under this subsection to reflect, in whole or in part, any land diversion payments for the commodity for which an increase is determined.

(c) Marketing quotas in effect for 1987 through 1995 crops of wheat; reduction in normally planted acreage as condition prerequisite for loan, etc.

Notwithstanding any other provision of law, whenever marketing quotas are in effect for any of the 1987 through 1995 crops of wheat, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments on any commodity under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), that the acreage normally planted to crops designated by the Secretary, adjusted as considered necessary by the Secretary to be fair and equitable among producers, shall be reduced by a quantity equal to—

(1) the acreage that the Secretary determines would normally be planted to wheat on a farm; minus

(2) the individual farm program acreage for the farm under section 107B(d)(3)(A)[1] of such Act.

(Pub. L. 95–113, title X, § 1001, Sept. 29, 1977, 91 Stat. 950; Pub. L. 95–279, title I, § 101, May 15, 1978, 92 Stat. 240; Pub. L. 95–334, title V, § 501(a), Aug. 4, 1978, 92 Stat. 434; Pub. L. 96–213, § 6, Mar. 18, 1980, 94 Stat. 120; Pub. L. 97–98, title XI, § 1106, Dec. 22, 1981, 95 Stat. 1265; Pub. L. 99–198, title X, § 1014, Dec. 23, 1985, 99 Stat. 1456; Pub. L. 101–624, title XI, § 1141, Nov. 28, 1990, 104 Stat. 3515.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsecs. (a) and (c), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 107B(d)(3)(A) of such Act, referred to in subsec. (c)(2), is section 107B(d)(3)(A) of the Agricultural Act of 1949, which was classified to section 1445b–3a(d)(3)(A) of this title prior to repeal by Pub. L. 104–127, title I, § 171(b)(2)(D), Apr. 4, 1996, 110 Stat. 938.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1977, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1990—Subsecs. (a), (b)(1), (c). Pub. L. 101–624, § 1141(1), substituted ''1995'' for ''1990''.

Subsec. (c)(2). Pub. L. 101–624, § 1141(2), substituted ''section 107B(d)(3)(A)'' for ''section 107D(d)(3)(A)''.

1985—Subsecs. (a), (b)(1). Pub. L. 99–198 substituted ''1982 through 1990'' for ''1982 through 1985''.

Subsec. (c). Pub. L. 99–198 added subsec. (c).

1981—Subsec. (a). Pub. L. 97–98 substituted provision authorizing the Secretary, whenever a set-aside program is in effect for one or more of the 1982 through 1985 crops of wheat and feed grains, to require as a condition of eligibility for loans, purchases, and payments for such crops that the producers not exceed the acreage on the farm normally planted to crops designated by the Secretary and permitting the Secretary to require producers participating in the program to keep records necessary to assist the Secretary in determining normal crop acreage for any crop year for provision authorizing the Secretary, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, to require as a condition of eligibility for loans, purchases, and payments that the producers not exceed the acreage on the farm normally planted to crops designated by the Secretary.

Subsec. (b). Pub. L. 97–98 substituted provision relating to established price increase for one or more of the 1982 through 1985 crops of wheat and feed grains for provision relating to established price increase for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice.

Subsec. (c). Pub. L. 97–98 struck out subsec. (c) which related to loans, purchases, and payments for producers of the 1980 crop of any commodity who exceeded the authorized acreage.

1980—Subsec. (a). Pub. L. 96–213 amended subsec. (a) generally, temporarily substituting provisions relating to requiring producers not to exceed the acreage on the farm normally planted to designated crops, as reduced, for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, for provisions relating to reduction of acreage normally planted to designated crops by the acreage set-aside or diversion for the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice. See Effective and Termination Dates of 1980 Amendment note below.

Subsec. (b). Pub. L. 96–213 amended subsec. (b) generally, temporarily substituting provisions relating to increases of the established price as compensation to producers for not exceeding the acreage in accordance with subsection (a) and participating in set-asides for 1980 and 1980 crops for provisions relating to increases of the established prices to compensate producers for participation in set-asides for 1978 through 1981 crops. See Effective and Termination Dates of 1980 Amendment note below.

Subsec. (c). Pub. L. 96–213, in amending section generally, temporarily added subsec. (c). See Effective and Termination Dates of 1980 Amendment note below.

1978—Subsec. (b). Pub. L. 95–334 added applicability to rice.

Pub. L. 95–279 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1980 AMENDMENT

Section 6 of Pub. L. 96–213 provided that the amendment made by that section is effective for 1980 and 1981 crops.

EFFECTIVE DATE OF 1978 AMENDMENTS

Section 501(b) of Pub. L. 95–334 provided that: ''This section [amending this section] shall become effective October 1, 1978, and any producers who, prior to such date, receive payments on the 1978 crop of rice as computed under the Agricultural Act of 1949 [see Short Title note set out under section 1421 of this title], as amended by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title], may elect after September 30, 1978, to receive payments as computed under section 1001(b) of the Food and Agriculture Act of 1977, as amended by this section.''

Section 103 of title I of Pub. L. 95–279 provided that: ''Sections 101 and 102 [amending this section and sec-

[1] See References in Text note below.

tion 1444 of this title] of this title shall become effective October 1, 1978, and any producers who, prior to such date, receive loans and payments on the 1978 crop of the commodity as computed under the Agricultural Act of 1949 [see Short Title note set out under section 1421 of this title], as amended by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title] may elect after September 30, 1978, to receive loans and payments as computed under this title.''

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1310. American agriculture protection program

(a) Determination of short supply; suspension of commercial export sales; parity price

Notwithstanding any other provision of law, whenever the President or any other member of the executive branch of the Federal Government causes to be suspended, based upon a determination of short supply, the commercial export sales of any commodity, as defined in subsection (c) of this section, to any country or area with which the United States otherwise continues commercial trade, the Secretary of Agriculture shall, on the day the suspension is initiated, set the loan level for such commodity under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], if a loan program is in effect for the commodity, at 90 per centum of the parity price for the commodity, as such parity price is determined on the day the suspension is initiated.

(b) Duration of loan level

Any loan level established pursuant to subsection (a) of this section shall remain in effect as long as the suspension of commercial export sales described in subsection (a) of this section remains in effect.

(c) "Commodity" defined

For purposes of this section, the term ''commodity'' shall include any of the following: wheat, corn, grain sorghum, soybeans, oats, rye, barley, rice, flaxseed, and cotton.

(Pub. L. 95–113, title X, § 1002, Sept. 29, 1977, 91 Stat. 950.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1977, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5677 of this title.

§ 1310a. Normal supply of commodity for 1986 through 1995 crops

Notwithstanding any other provision of law, if the Secretary of Agriculture determines that the supply of wheat, corn, upland cotton, or rice for the marketing year for any of the 1986 through 1995 crops of such commodity is not likely to be excessive and that program measures to reduce or control the planted acreage of the crop are not necessary, such a decision shall constitute a determination that the total supply of the commodity does not exceed the normal supply and no determination to the contrary shall be made by the Secretary with respect to such commodity for such marketing year.

(Pub. L. 99–198, title X, § 1019, Dec. 23, 1985, 99 Stat. 1459; Pub. L. 101–624, title XI, § 1142, Nov. 28, 1990, 104 Stat. 3515.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1310a, Pub. L. 97–98, title XI, § 1107, Dec. 22, 1981, 95 Stat. 1266, provided for a normal supply of commodities for the 1982 through 1985 crops.

AMENDMENTS

1990—Pub. L. 101–624 substituted ''1995'' for ''1990''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

PART B—MARKETING QUOTAS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1361, 1372 of this title.

SUBPART I—MARKETING QUOTAS—TOBACCO

§ 1311. Legislative findings

(a) The marketing of tobacco constitutes one of the greatest basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to the general welfare. Tobacco produced for market is sold on a Nation-wide market and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, are widely scattered throughout the Nation, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry through unions and corporations enjoying Government protection and sanction. For these reasons among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nation-wide market.

(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such com-

modity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the price for such commodity with consequent injury and destruction of interstate and foreign commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.

(c) Whenever an abnormally excessive supply of tobacco exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this subpart becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce.

(Feb. 16, 1938, ch. 30, title III, § 311, 52 Stat. 45.)

§ 1312. National marketing quota

(a) Proclamation of quota

The Secretary shall, not later than December 1 of any marketing year with respect to flue-cured tobacco, February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco, proclaim a national marketing quota for any kind of tobacco for each of the next three succeeding marketing years whenever he determines with respect to such kind of tobacco—

(1) that a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) that such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) that amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) that a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum held pursuant to subsection (c) of this section: *Provided*, That if such producers have disapproved national marketing quotas in referenda held in three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers in a referendum, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

(b) Announcement of amount of quota

The Secretary shall also determine and announce, not later than the first day of December with respect to flue-cured tobacco, not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco, the amount of the national marketing quota proclaimed pursuant to subsection (a) of this section which is in effect for the next marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of tobacco equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

(c) Referendum on quotas

Within thirty days after the proclamation of national marketing quotas under subsection (a) of this section, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting oppose the national marketing quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no wise affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in this section, of a national marketing quota.

(Feb. 16, 1938, ch. 30, title III, § 312, 52 Stat. 46; Mar. 26, 1938, ch. 54, 52 Stat. 120; Aug. 7, 1939, ch. 562, 563, 53 Stat. 1261; June 13, 1940, ch. 360, §§ 2, 3, 54 Stat. 392; Nov. 22, 1940, ch. 914, §§ 2, 5, 54 Stat. 1209, 1210; Feb. 28, 1942, ch. 123, 56 Stat. 121; July 3, 1948, ch. 827, title II, § 208, 62 Stat. 1257; Aug. 9, 1955, ch. 639, 69 Stat. 557; June 22, 1956, ch. 427, 70 Stat. 330; Apr. 7, 1986, Pub. L. 99–272, title I, § 1104(a), 100 Stat. 89.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–272, § 1104(a)(1), substituted ''February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco'' for ''and February 1 of any marketing year with respect to other kinds of tobacco''.

Subsec. (b). Pub. L. 99–272, § 1104(a)(2), substituted ''not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco'' for ''and not later than the first day of February with respect to other kinds of tobacco''.

1956—Subsec. (a). Act June 22, 1956, inserted ''with respect to flue-cured tobacco, and February 1 of any marketing year with respect to other kinds of tobacco'' after ''December 1 of any marketing year''.

Subsec. (b). Act June 22, 1956, substituted ''not later than the first day of December with respect to flue-cured tobacco and not later than the first day of February with respect to other kinds of tobacco'' for ''prior to the first day of December''.

1955—Subsec. (a). Act Aug. 9, 1955, restated and amended provisions generally to provide that quotas shall not be proclaimed oftener than once every 3 years for any kind of tobacco for which producers have dis-

approved marketing quotas in 3 successive years subsequent to 1952 (unless at least one-fourth of the producers of such tobacco petition the Secretary to proclaim quotas).

Subsec. (b). Act Aug. 9, 1955, amended and substituted former provisions of subsec. (a) as to announcement of quota for former provisions of this subsec. as to referendum on quotas.

Subsec. (c). Act Aug. 9, 1955, provided that referendum on quotas which formerly appeared in subsec. (b) should be determinative for the next three succeeding years, rather than each succeeding year, and eliminated provisions as to submission of question of whether tobacco quotas would be favored for a period of three years.

1948—Subsec. (a). Act July 3, 1948, inserted proviso at end of first sentence.

1942—Subsec. (a). Act Feb. 28, 1942, substituted ''the following March 1'' for ''December 31'' in last sentence.

1940—Subsec. (a). Act June 13, 1940, substituted ''20'' for ''10'' in last sentence and inserted last clause.

Subsecs. (b) to (f). Act Nov. 22, 1940, struck out subsecs. (b), (d), (e), and (f), struck out second sentence of subsec. (c) which related to referendum on burley, fire-cured, and dark air-cured tobacco, and redesignated subsec. (c) as (b).

Act June 13, 1940, amended subsec. (c) by inserting provisions relating to referendum on tobacco marketing quotas for three-year period.

1939—Subsec. (a). Act Aug. 7, 1939, amended first sentence and inserted last sentence.

1938—Subsec. (f). Act Mar. 26, 1938, added subsec. (f).

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Pub. L. 92–10, § 4, Apr. 14, 1971, 85 Stat. 27, provided that any action taken by the Secretary pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended [this section], for burley tobacco for any of the three marketing years beginning October 1, 1971, prior to Apr. 14, 1971, was to be of no effect.

DEFERMENT OF PROCLAMATION OF MARKETING QUOTAS FOR BURLEY TOBACCO

Pub. L. 92–1, Mar. 1, 1971, 85 Stat. 3, provided that, notwithstanding any other provision of law, the Secretary of Agriculture could defer any proclamation under section 312 of the Agricultural Adjustment Act of 1938, as amended [this section], with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, until the date he determined was necessary to permit growers to be notified of their farm marketing quotas and the referendum to be held prior to normal planting time.

EXTENSION OF TIME FOR PROCLAMATION OF MARKETING QUOTAS FOR THREE MARKETING YEARS BEGINNING OCT. 1, 1971

Pub. L. 91–641, Dec. 31, 1970, 84 Stat. 1879, authorized the Secretary of Agriculture to defer until March 1, 1971, any proclamation under this section with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971.

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO; AMOUNT OF PRICE SUPPORT

Section 2 of Joint Res. July 28, 1945, ch. 330, 59 Stat. 506, as amended by Pub. L. 85–92, § 2, July 10, 1957, 71 Stat. 284, which authorized the Commodity Credit Corporation to make loans or other price support available beginning with the 1945 crop, was repealed by Pub. L. 86–389, § 2, Feb. 20, 1960, 74 Stat. 7. See section 1445 of this title.

1956 MARYLAND ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 80, 70 Stat. 35, provided for increase and redetermination of 1956 Maryland tobacco acreage allotments.

1956 FIRE-CURED AND DARK AIR-CURED TOBACCO ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 79, 70 Stat. 34, provided for increase and redetermination of 1956 fire-cured and dark air-cured tobacco acreage allotments.

1956 BURLEY ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 78, 70 Stat. 34, provided for increase and redetermination of 1956 acreage allotments of burley tobacco.

1955–1956 BURLEY TOBACCO QUOTA

Section 1 of act Mar. 31, 1955, ch. 21, 69 Stat. 23, provided for redetermination of national marketing quota for burley tobacco for the 1955–1956 marketing year.

QUOTAS FOR BURLEY AND FLUE-CURED TOBACCO FOR MARKETING YEARS 1944–45 THROUGH 1947–48

Joint Res. July 7, 1943, ch. 195, 57 Stat. 387, as amended by Joint Res. Mar. 31, 1944, ch. 149, 58 Stat. 136; act Feb. 19, 1946, ch. 31, § 1, 60 Stat. 21, provided for quotas for burley and flue-cured tobacco for marketing years 1944–45 through 1947–48. The second par. of section 1 of said act Feb. 19, 1946, provided that amendment made by such section to Joint Res. July 7, 1943, should not apply to flue-cured tobacco for 1946–47 marketing year.

PROCLAMATIONS AFFIRMED

Act Apr. 7, 1938, ch. 107, § 19, 52 Stat. 205, provided that proclamations issued by Secretary of Agriculture under sections 1312(a), 1327, 1328, and 1345 of this title should be effective as provided in those sections, and no provision of any amendment made by that act should be construed as requiring any further action under section 1312(c) or 1347 of this title with respect to marketing years beginning in 1938.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Referendum on orders regulating handling of commodities, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1313, 1314c, 1314e, 1314f of this title.

§ 1313. Apportionment of national marketing quota

(a) Apportionment among States

The national marketing quota for tobacco established pursuant to the provisions of section 1312 of this title, less the amount to be allotted under subsection (c) of this section, shall be apportioned by the Secretary among the several States on the basis of the total production of tobacco in each State during the five calendar years immediately preceding the calendar year in which the quota is proclaimed (plus, in applicable years, the normal production on the acre-

age diverted under previous agricultural adjustment and conservation programs), with such adjustments as are determined to be necessary to make correction for abnormal conditions of production, for small farms, and for trends in production, giving due consideration to seed bed and other plant diseases during such five-year period. Notwithstanding any other provision of this section and section 1312 of this title, except the provisions in subsection (g) of this section relating to reduction of allotments, for any of the three marketing years, 1941–1942 to 1943–1944, in which a national marketing quota is in effect for burley or flue-cured tobacco, such national marketing quota shall not be reduced below the 1940–1941 national marketing quota by more than 10 per centum and the farm-acreage allotments (other than allotments established in each year under subsection (g) of this section for farms on which no tobacco was produced in the last five years) shall be determined by increasing or decreasing the farm-acreage allotments established in the last preceding year in which marketing quotas were in effect in the same ratio as such national marketing quota is increased or decreased above or below the last preceding national marketing quota: *Provided*, That in the case of flue-cured tobacco no allotment shall be decreased below the 1940 allotment if such allotment was two acres or less, and in the case of burley tobacco no allotment shall be decreased below the 1939 allotment if such allotment was one-half acre or less, or below the 1940 allotment if such allotment was over one-half acre and not over one acre: *And provided further*, That an additional acreage not in excess of 2 per centum of the total acreage allotted to all farms in each State in 1940 shall be allotted by the local committees, without regard to the ratio aforesaid, among farms in the State in accordance with regulations prescribed by the Secretary so as to establish allotments which the committees find will be fair and equitable in relation to the past acreage of tobacco (harvested and diverted); land, labor, and equipment available for the production of tobacco; and crop-rotation practices: *And provided further*, That the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1942 shall not be less than one-half acre, and the acreage required for apportionment under this proviso shall be in addition to the National and State acreage allotments.

(b) Allotment of quota among producing farms

The Secretary shall provide, through the local committees, for the allotment of the marketing quota for any State among the farms on which tobacco is produced, on the basis of the following: Past marketing of tobacco, making due allowance for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That, except for farms on which for the first time in five years tobacco is produced to be marketed in the marketing year for which the quota is effective, the marketing quota for any farm shall not be less than the smaller of either (1) three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds, in the case of other kinds of tobacco, or (2) the average tobacco production for the farm during the preceding three years, plus the average normal production of any tobacco acreage diverted under agricultural adjustment and conservation programs during such preceding three years.

(c) Allotment to previous nonproducing farms and small farms

The Secretary shall provide, through local committees, for the allotment of not in excess of 5 per centum of the national marketing quota (1) to farms in any State whether it has a State quota or not on which for the first time in five years tobacco is produced to be marketed in the year for which the quota is effective and (2) for further increase of allotments to small farms pursuant to the proviso in subsection (b) of this section on the basis of the following: Land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That farm marketing quotas established pursuant to this subsection for farms on which tobacco is produced for the first time in five years shall not exceed 75 per centum of the farm marketing quotas established pursuant to subsection (b) of this section for farms which are similar with respect to the following: Land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco.

(d) Transfer of farm marketing quotas

Farm marketing quotas may be transferred only in such manner and subject to such conditions as the Secretary may prescribe by regulations.

(e) Quota for 1938; minimum State allotments

In case of flue-cured tobacco, the national quota for 1938 is increased by a number of pounds required to provide for each State in addition to the State poundage allotment a poundage not in excess of 4 per centum of the allotment which shall be apportioned in amounts which the Secretary determines to be fair and reasonable to farms in the State receiving allotments under this chapter which the Secretary determines are inadequate in view of past production of tobacco, and for each year by a number of pounds sufficient to assure that any State receiving a State poundage allotment of flue-cured tobacco shall receive a minimum State poundage allotment of flue-cured tobacco equal to the average national yield for the preceding five years of five hundred acres of such tobacco.

(f) Increase of 1938 quota

In the case of fire-cured and dark air-cured and burley tobacco, the national quota for 1938 is increased by a number of pounds required to provide for each State in addition to the State poundage allotment a poundage not in excess of 2 per centum of the allotment which shall be apportioned in amounts which the Secretary determines to be fair and reasonable to farms in

the State receiving allotments under this section which the Secretary determines are inadequate in view of past production of tobacco.

(g) Conversion of national marketing quota into national acreage allotment

Notwithstanding any other provision of this section, the Secretary may convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and may apportion the national acreage allotment, less a reserve of not to exceed 1 per centum thereof for new farms, for making corrections in old farm acreage allotments, and for adjusting inequities in old farm acreage allotments, through the local committees among farms on the basis of the factors set forth in subsection (b) of this section, using past farm acreage and past farm acreage allotments for tobacco in lieu of past marketing of tobacco; and the Secretary on the basis of the factors set forth in subsection (c) of this section and the past tobacco experience of the farm operator, shall through the local committees allot that portion of the national acreage allotment reserved for new farms among farms on which no tobacco was produced or considered produced during the last five years. Any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955, or any subsequent crop shall not be taken into account in establishing State and farm acreage allotments. Except for farms last mentioned or a farm operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced, the farm-acreage allotment shall be increased by the smaller of (1) 20 per centum of such allotment or (2) the percentage by which the normal yield of such allotment (as determined through the local committees in accordance with regulations prescribed by the Secretary) is less than three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds in the case of other kinds of tobacco: *Provided*, That the normal yield of the estimated number of acres so added to farm acreage allotments in any State shall be considered as a part of the State marketing quota in applying the proviso in subsection (a) of this section. The actual production of the acreage allotment established for a farm pursuant to this subsection shall be the amount of the farm marketing quota. If any amount of tobacco shall be marketed as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quota, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of tobacco is not furnished as required by the Secretary or if any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the acreage of tobacco grown on the farm required by regulations issued pursuant to this chapter, the acreage allotment next established for the farm on which such tobacco is produced shall be reduced by a percentage similarly computed. If in any calendar year more than one crop of tobacco is grown from (1) the same tobacco plants or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco has been so grown and harvested.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85–835, title V, § 501, Aug. 28, 1958, 72 Stat. 996

(i) Increase of marketing quotas and acreage allotments to meet demand

Notwithstanding any other provision of this chapter, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under the marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carry-over requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carry-over requirements. The increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco. The additional production authorized by this subsection shall be in addition to the national marketing quota established for such kind of tobacco pursuant to section 1312 of this title. The increase in acreage under this subsection shall not be considered in establishing future State or farm acreage allotments.

(j) Tobacco acreage allotments for 1956, 1957, and 1958

In establishing farm acreage allotments for burley tobacco crops for the years 1956, 1957, and 1958 the acreage allotment for any farm which has not been retired from agricultural production shall not be reduced below the acreage allotment which would otherwise be established because the harvested acreage was less than the allotted acreage unless the acreage harvested was less than 50 per centum of the allotted acreage in each of the preceding five years, in which event it shall not be reduced for such reason to less than the largest acreage harvested in any year in such five-year period.

(j)[1] Old farm tobacco acreage allotment

The production of tobacco on a farm in 1955 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsections (b) and (g) of this section or section 1314c of this title: *Provided, however*, That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsections (c) and (g) of this section or section 1314c of this title, but such production shall not be deemed past tobacco experience for any producer on the farm.

(Feb. 16, 1938, ch. 30, title III, § 313, 52 Stat. 47; Apr. 7, 1938, ch. 107, § 5, 52 Stat. 202; May 31, 1938, ch. 292, § 2, 52 Stat. 586; Aug. 7, 1939, ch. 564, 53 Stat. 1261; June 13, 1940, ch. 360, § 4, 54 Stat. 392; Feb. 6, 1942, ch. 44, § 1, 56 Stat. 51; Apr. 29, 1943, ch. 80, 57 Stat. 69; Oct. 17, 1951, ch. 511, 65 Stat. 422; Mar. 31, 1955, ch. 21, §§ 3, 4, 69 Stat. 24; Aug. 11, 1955, ch. 789, 69 Stat. 670; Aug. 11, 1955, ch. 799, 69 Stat. 684; July 2, 1958, Pub. L. 85–489, § 1, 72 Stat. 291; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 995; Apr. 16, 1965, Pub. L. 89–12, § 2, 79 Stat. 72; Oct. 12, 1967, Pub. L. 90–106, 81 Stat. 275.)

AMENDMENTS

1967—Subsec. (g). Pub. L. 90–106 changed manner in which tobacco acreage allotments are computed by providing for conversion of national marketing quota for tobacco into a national acreage allotment to be apportioned among farms instead of apportioning the national quota among the States, based on past State production, and then converting into State acreage allotments for apportionment among farms.

1965—Subsec. (j). Pub. L. 89–12 inserted in old farm tobacco acreage allotment provisions reference to section 1314c of this title in two places.

1958—Subsec. (g). Pub. L. 85–489 required reduction of acreage allotment if in any calendar year more than one crop of tobacco is grown from same tobacco plants or different tobacco plants, and is harvested for marketing from same acreage of a farm.

Subsec. (h). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85–835, repealed subsec. (h) which related to adjustment of allotment upon acquisition of part of farms by United States for defense.

1955—Subsec. (g). Act Mar. 31, 1955, §§ 3, 4, provided that excess tobacco acreage for years 1955 and thereafter should not be taken into consideration as part of farm history in establishing future acreage allotments, and that if a producer makes a false report of acreage of tobacco grown on his farm, the amount of misstatement should be deducted from his next year's allotment.

Subsec. (j). Act Aug. 11, 1955, ch. 789, added subsec. (j) relating to tobacco acreage allotments for 1956, 1957, and 1958.

Act Aug. 11, 1955, ch. 799, added subsec. (j) relating to old farm tobacco acreage allotment.

1951—Subsec. (i). Act Oct. 17, 1951, added subsec. (i).

1943—Subsec. (a). Act Apr. 29, 1943, inserted proviso beginning "That the Burley tobacco acreage".

1942—Subsec. (h). Act Feb. 6, 1942, added subsec. (h).

1940—Subsec. (a). Act June 13, 1940, inserted all following first sentence.

1939—Subsec. (g). Act. Aug. 7, 1939, added subsec. (g).

1938—Subsec. (a). Act Apr. 7, 1938, struck out "net".

Subsec. (e). Act May 31, 1938, substituted "4 per centum" for "2 per centum".

Act Apr. 7, 1938, added subsec. (e).

Subsec. (f). Act May 31, 1938, added subsec. (f).

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85–489 provided that: "The amendment made by this Act [amending this section] shall become effective beginning with the 1958 crop of tobacco".

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note set out under section 1378 of this title.

INCREASE OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS TO MEET DEMAND UNAFFECTED BY ACREAGE-POUNDAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Authority or responsibility of Secretary of Agriculture under subsec. (i) of this section with respect to increasing allotments or quotas for farms producing certain types of tobacco unaffected by acreage-poundage quotas and price support provisions, see note set out under section 1314c of this title.

FIRE-CURED, DARK AIR-CURED AND VIRGINIA SUN-CURED TOBACCO

Amount of price support for fire-cured, dark air-cured, and Virginia sun-cured tobacco, see note set out under section 1312 of this title.

APPORTIONMENT OF BURLEY ACREAGE ALLOTMENT

Joint Res. Mar. 31, 1944, ch. 149, 58 Stat. 136, provided that notwithstanding the provisions of this section the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1943 should be less than one acre, or 25 per centum of the cropland, whichever is the smaller, and the acreage required for apportionment under the resolution should be in addition to the National and State acreage allotments.

CROSS REFERENCES

Agreements for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1314. Penalties

(a) Persons liable

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 [7 U.S.C. 1421 et seq.] 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)[1] of that Act [7 U.S.C. 1445–1(d)(1) and 1445–2(d)(1)], 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. Such penalty shall be paid by the person who ac-

[1] So in original. Probably should be "(k)".

[1] So in original. A reference to section 106B(d)(1) was probably intended.

quired such tobacco from the producer but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale; or, if the tobacco is marketed by the producer through a warehouseman or other agent, such penalty shall be paid by such warehouseman or agent who may deduct an amount equivalent to the penalty from the price paid to the producer: *Provided*, That in case any tobacco is marketed directly to any person outside the United States the penalty shall be paid and remitted by the producer. If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the farm-acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. Tobacco carried over by the producer thereof from one marketing year to another may be marketed without payment of the penalty imposed by this section if the total amount of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over did not exceed the farm marketing quota established for the farm for such marketing year (or which would have been established if marketing quotas had been in effect for such marketing year), or if the tobacco so carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the farm-acreage allotment. Tobacco produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though it is marketed prior to the date on which such marketing year begins.

(b) Collection and deposit

The Secretary shall require collection of the penalty upon a proportion of each lot of tobacco marketed from the farm equal to the proportion which the tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm if satisfactory proof is not furnished as to the disposition to be made of such excess tobacco prior to the marketing of any tobacco from the farm. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States until the end of the marketing year next succeeding that in which the funds are collected, and upon certification by the Secretary there shall be paid out of such special deposit account to persons designated by the Secretary the amount by which the penalty collected exceeds the amount of penalty due upon tobacco marketed in excess of the farm marketing quota for any farm. Such special account shall be administered by the Secretary, and the basis for, the amount of, and the person entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

(c) Lien in favor of United States

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.

(Feb. 16, 1938. ch. 30, title III, § 314, 52 Stat. 48; Aug. 7, 1939, ch. 565, 53 Stat. 1262; June 13, 1940, ch. 360, § 5, 54 Stat. 393; Feb. 19, 1946, ch. 31, § 2, 60 Stat. 21; June 22, 1954, ch. 339, 68 Stat. 270; Mar. 31, 1955, ch. 21, § 5, 69 Stat. 24; July 20, 1982, Pub. L. 97–218, title I, § 103, title II, § 206(a), 96 Stat. 201, 206.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–218, § 103, inserted ''(1)'' before ''any kind of tobacco'', and inserted cl. (2), regarding marketing of any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on a farm has not agreed to make the required contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account, if marketing quotas for that kind of tobacco are in effect.

Subsec. (c). Pub. L. 97–218, § 206(a), added subsec. (c).

1955—Subsec. (a). Act Mar. 31, 1955, substituted ''75 per centum'' for ''50 per centum'' in first sentence.

1954—Subsec. (a). Act June 22, 1954, substituted ''50 per centum'' for ''40 per centum'' in first sentence.

1946—Subsec. (a). Act Feb. 19, 1946, struck out ''10 cents per pound in the case of flue-cured, Maryland, or Burley tobacco and 5 cents per pound in the case of all other kinds of tobacco.'' and inserted in lieu thereof ''40 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year'' in first sentence.

1940—Act June 13, 1940, designated existing provisions as subsec. (a), inserted last three sentences to subsec. (a), and added subsec. (b).

1939—Subsec. (a). Act Aug. 7, 1939, struck out first sentence and inserted in lieu thereof ''The marketing of any tobacco in excess of the marketing quota for the farm on which the tobacco is produced shall be subject to a penalty of 10 cents per pound in the case of flue-cured, Maryland, or Burley tobacco and 5 cents per pound in the case of all other kinds of tobacco''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 103 of Pub. L. 97–218 provided that the amendment made by that section is effective for 1983 and subsequent crops of tobacco.

Amendment by section 206(a) of Pub. L. 97–218 effective July 20, 1982, but not to 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 that date, see section 207 of Pub. L. 97–218, set out as a note under section 1314b of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Mar. 31, 1955, provided that the amendment made by that act is effective July 1, 1955, with respect to flue-cured tobacco, and Oct. 1, 1955, with respect to other kinds of tobacco.

EFFECTIVE DATE OF 1954 AMENDMENT

Act June 22, 1954, provided that the amendment made by that act is effective Oct. 1, 1954, except that in the case of flue-cured tobacco such amendment is effective July 1, 1955.

EFFECTIVE DATE OF 1946 AMENDMENT

The second par. of section 2 of act Feb. 19, 1946, provided: ''The amendment made by this section [amending this section] shall become effective July 1, 1946, except that in the case of flue-cured tobacco such amendment shall become effective May 1, 1947.''

REVISION OF THIRD SENTENCE AND APPLICATION OF FOURTH SENTENCE OF SUBSEC. (a) DURING ACREAGE-POUNDAGE QUOTA PERIODS

Section 317(g)(2), (3) of act Feb. 16, 1938, as added by Pub. L. 89–12, § 1, Apr. 16, 1965, 79 Stat. 71, and classified to section 1314c(g)(2), (3) of this title, provided that:

''(2) When marketing quotas established under this section [section 1314c of this title] are in effect the provisions with respect to penalties contained in the third sentence of subsection 314(a) [subsec. (a) of this section] shall be revised to read: 'If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer'.

''(3) For the first year a marketing quota program established under the provisions of this section [section 1314c of this title] is in effect, the words 'normal production' where they appear in the fourth sentence of subsection (a) of such section [subsec. (a) of this section] shall be read 'farm yield' and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section [section 1314c of this title] is in effect, the provisions of subsection (a)(8) [section 1314c(a)(8) of this title] shall apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of subsection 314(a) [subsec. (a) of this section] shall not be applicable.''

REVISION OF THIRD SENTENCE AND APPLICATION OF FOURTH SENTENCE OF SUBSEC. (a) DURING BURLEY TOBACCO POUNDAGE QUOTA PERIODS

Section 319(i)(2), (3) of act Feb. 16, 1938, as added by Pub. L. 92–10, § 1, Apr. 14, 1971, 85 Stat. 23, and classified to section 1314e(i)(2), (3) of this title, provided that:

''(2) The provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: 'If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty in respect thereof shall be paid and remitted by the producer'.

''(3) The provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable. For the first year a marketing quota program established under the provisions of this section [section 1314e of this title] is in effect, the farm marketing quota determined under the provisions of subsection (e) of this section shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of subsection (c) of this section shall apply.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1445 of this title.

§ 1314–1. Limitation on sale of tobacco floor sweepings

(a) Penalty

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.

(b) Assessment; notice and opportunity for hearing; determination

The penalty provided for in subsection (a) of this section 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) Relation to other law

The provisions of section 1376 of this title shall apply to penalties under this section.

(d) Definitions

As used in this section—

(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.

(Feb. 16, 1938, ch. 30, title III, § 314A, as added July 20, 1982, Pub. L. 97–218, title III, § 306, 96 Stat. 215.)

§ 1314a. Repealed. Pub. L. 90–51, § 2, July 7, 1967, 81 Stat. 121

Section, act Feb. 16, 1938, ch. 30, title III, § 315, as added Aug. 21, 1958, Pub. L. 85–705, 72 Stat. 703, provided for a referendum among producers of type 21 (Virginia) fire-cured tobacco and type 37 Virginia sun-cured tobacco on the question of a single combined tobacco acreage allotment and provided for establishment and subsequent increases and decreases in allotments. See section 1314d of this title.

§ 1314b. Lease or sale of acreage allotments

(a) Conditions for permission from Secretary; false statements; exceptions

(1) Notwithstanding any other provision of law—

(A)(i) The Secretary, if the Secretary determines that it will not impair the effective operation of the tobacco marketing quota or price support program, may permit the owner and operator of any farm for which a tobacco acreage allotment (other than a Burley, Flue-cured, dark air-cured, Fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 to-

bacco acreage allotment) is established under this chapter to lease and transfer all or any part of such allotment to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment of the same kind.

(ii) The Secretary shall, only with respect to the 1984 through 1986 crops of Flue-cured tobacco, permit the owner of a farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter to lease and transfer all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current Flue-cured tobacco acreage allotment or quota except that for the 1985 and 1986 crops such lease and transfer shall be permitted only if (except as otherwise provided in paragraph (2)(A)) the parties to the lease file a copy of the lease agreement with the county committee for the county in which the farms are located, together with a written statement certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form including a loan by the lessee to the lessor, the endorsement of a note by the lessee for the lessor, or any other similar arrangement which represents the anticipated income for the lease, prior to the marketing of the tobacco produced under the lease and that the lease and transfer is otherwise in compliance with the provisions of this section. Beginning with the 1985 crop, the Secretary shall promulgate regulations establishing, insofar as is reasonably practicable, a similar requirement providing that none of the consideration for the lease of any Flue-cured tobacco acreage allotment and quota may be paid to the lessor prior to the marketing of the tobacco produced under the lease. The Secretary shall also require that any seller of a Flue-cured tobacco allotment and quota grant to the buyer an option to make payment therefore in equal annual installments payable each fall for a period not to exceed five years from the year in which the sale is made. With respect to the 1987 and subsequent crops of Flue-cured tobacco, the Secretary shall not permit the lease and transfer of Flue-cured tobacco acreage allotments and quotas.

(B) If, after notice and opportunity for a hearing, the county committee determines that the lessee or the lessor of a Flue-cured tobacco acreage allotment or quota knowingly made a false statement in the written statement filed under subparagraph (A), (i) in the case of a false statement knowingly made by the lessee, the lease agreement for purposes of the Flue-cured tobacco marketing quota program with respect to the lessee's farm shall be considered null and void as of the date approved by the county committee or (ii) in the case of a false statement knowingly made by the lessor, the Flue-cured tobacco allotment and quota next established for the farm of the lessor shall be reduced by the percentage which the leased allotment or quota was of the total Flue-cured tobacco allotment or quota for the farm. Notice of any determination made by the county committee under the preceding provision shall be mailed as soon as practicable to the lessee or lessor involved. If the lessee or lessor is dissatisfied with such determination, the lessee or lessor may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 1363 of this title.

(2) Repealed. Pub. L. 98–180, title II, § 206(b)(1), Nov. 29, 1983, 97 Stat. 1147.

(b) Term of years; terms and conditions

Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) Filing with county committees; calculation of normal yield for transfer

The lease and transfer or sale and transfer of any allotment shall not be effective until a copy of the lease or sale agreement, as the case may be, is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with the provisions of this section. The transfer shall be approved acre for acre.

(d) Allotments for other years unaffected; inclusion of amount in transferors' plantings; referendum voting rights

The lease and transfer of any part of a tobacco acreage allotment determined for a farm shall not affect the allotment for the farm from which such acreage allotment is transferred or the farm to which it is transferred, except with respect to the crop year specified in the lease. The amount of acreage allotment which is leased from a farm shall be considered for purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred and the production pursuant to the lease and transfer shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is transferred. The lessor shall be considered to have been engaged in the production of tobacco for the purpose of eligibility to vote in the referendum.

(e) Limitation on amount of acreage allotment; "tillable cropland" defined

(1) The total acreage allotted to any farm after the transfer by lease or sale of tobacco acreage allotment to the farm under the provisions of this section shall not exceed 50 per centum of the acreage of cropland in the farm or, in the case of the sale of a Flue-cured tobacco acreage allotment or poundage quota, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm: *Provided*, That in the case of cigar-filler tobacco types 42, 43, or 44, not more than 10 acres of allotment may be leased and transferred to any farm.

(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.

(f) Regulations

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(g) Sale of allotment or quota by one active Flue-cured tobacco producer to another; definition

(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.

(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.

(h)[1] Sale or forfeiture of allotment or quota; notice and opportunity for hearing; determination; review

(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.

(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.

(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 1363 of this title.

(h)[1] Transfer authority

(1) Notwithstanding any other provision of this section, the Secretary may permit, after June 30 of any crop year, the lease and transfer of flue-cured tobacco quota assigned to a farm if—

(A) the planted acreage of flue-cured tobacco on the farm to which the quota is assigned is determined by the Secretary to be equal to or greater than 90 percent of the farm's acreage allotment, or the planted acreage is determined to be sufficient to produce the farm marketing quota under average conditions; and

(B) the farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

(2) Any lease and transfer of quota under this paragraph may be made to any other farm within the same State in accordance with regulations issued by the Secretary.

(Feb. 16, 1938, ch. 30, title III, § 316, as added Sept. 6, 1961, Pub. L. 87–200, 75 Stat. 469; amended July 10, 1962, Pub. L. 87–530, 76 Stat. 151; Oct. 15, 1962, Pub. L. 87–824, 76 Stat. 947; July 19, 1963, Pub. L. 88–68, 77 Stat. 81; July 30, 1963, Pub. L. 88–80, 77 Stat. 114; Aug. 20, 1964, Pub. L. 88–469, §§ 1, 2, 78 Stat. 581; May 27, 1965, Pub. L. 89–29, 79 Stat. 118; Nov. 3, 1965, Pub. L. 89–321, title VII, § 703, 79 Stat. 1210; June 24, 1966, Pub. L. 89–471, 80 Stat. 220; Mar. 29, 1967, Pub. L. 90–6, 81 Stat. 6; July 7, 1967, Pub. L. 90–52, 81 Stat. 121; Oct. 11, 1968, Pub. L. 90–559, § 1(1), 82 Stat. 996; June 19, 1970, Pub. L. 91–284, §§ 1–4, 84 Stat. 314; June 6, 1972, Pub. L. 92–311, 86 Stat. 215; Aug. 1, 1973, Pub. L. 93–80, 87 Stat. 178; Oct. 24, 1974, Pub. L. 93–464, 88 Stat. 1416; Oct. 1, 1976, Pub. L. 94–445, 90 Stat. 1489; June 25, 1977, Pub. L. 95–54, 91 Stat. 250; July 20, 1982, Pub. L. 97–218, title II, § 201, 96 Stat. 201; Nov. 29, 1983, Pub. L. 98–180, title II, §§ 205(a), 206, 97 Stat. 1145, 1147; Dec. 22, 1987, Pub. L. 100–203, title I, § 1112(a), 101 Stat. 1330–7; Oct. 30, 1989, Pub. L. 101–134, § 2(b), 103 Stat. 781.)

REFERENCES IN TEXT

The written statement described in subsection (c) of this section, referred to in subsec. (a)(2)(A), was eliminated by the amendment to subsec. (c) by section 206(a) of Pub. L. 98–180. See 1983 Amendment note below.

[1] So in original. Two subsecs. (h) have been enacted.

AMENDMENTS

1989—Subsec. (c). Pub. L. 101–134 substituted ''The transfer shall be approved acre for acre.'' for ''If the normal yield established by the county committee for the farm to which the allotment is transferred by lease or sale does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.''

1987—Subsec. (h). Pub. L. 100–203 added subsec. (h) relating to transfer authority.

1983—Subsec. (a)(1). Pub. L. 98–180, § 205(a), designated existing provision as subpar. (A)(i), substituted ''The Secretary, if the Secretary'' for ''the Secretary, if he'', ''Fire-cured'' for ''fire-cured'', and ''lease and transfer all'' for '', to lease all'' and struck out ''shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter and'' before ''may permit'' and ''or quota'' after ''such allotment'' and ''tobacco allotment'' and added subpars. (A)(ii) and (B).

Subsec. (a)(2). Pub. L. 98–180, § 206(b)(1), struck out par. (2) which read as follows:

''(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.

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.''

Subsec. (c). Pub. L. 98–180, § 206(a), struck out provisions requiring the lessor and lessee, in addition to a copy of the lease, to file with the county committee a written statement certifying compliance with the provisions of this section, authorizing the county committee, after notice and opportunity for hearing, to determine that a knowingly false statement was made in such written statement, specifying penalties for such false statement, directing that notice of the determination be mailed to the lessor or lessee, and permitting the lessor or lessee, if dissatisfied with such determination, to review such determination under section 1363 of this title.

Subsec. (e)(1). Pub. L. 98–180, § 206(b)(2), substituted ''the sale of a Flue-cured tobacco acreage allotment or poundage quota'' for ''Flue-cured tobacco''.

Subsec. (g)(2). Pub. L. 98–180, § 206(b)(3), struck out last sentence which read as follows: ''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.''

1982—Subsec. (a). Pub. L. 97–218, § 201(a), designated existing provisions as par. (1), substituted ''shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter and may permit the owner and operator'' for ''may permit the owner and operator'', and substituted ''(other than a Burley, Flue-cured, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this chapter, to lease'' for ''(other than a Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this chapter to lease'', and added par. (2).

Subsec. (c). Pub. L. 97–218, § 201(b), inserted references to sales of acreage allotments in provision requiring the filing of agreements with the county committee of the county in which the farms involved are located, substituted provisions that in the case of a lease and transfer of any Flue-cured tobacco allotment or quota regarding any crop, a lease under this section shall take effect only after the lessor and lessee each file with the county committee a copy of the lease together with a written statement of compliance, and provisions for penalties, after notice and opportunity for hearing, in the event a county committee determines that either the lessor or the lessee knowingly made a false statement in the written statement of compliance, together with provisions for review of any unfavorable determination upon request, for former provisions that any lease of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of two thousand pounds filed on or after June 15 in any year was not effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was as much as 80 per centum of the farm acreage allotment in effect for such year, and inserted references to transfers by sale in the provisions for the acre by acre approval of transfers when the transfer/transferee normal yield differential is 10 percent or less.

Subsec. (e). Pub. L. 97–218, § 201(c), designated existing provisions as par. (1), substituted ''transfer by lease or sale'' for ''transfer by lease'' and ''cropland in the farm or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm'' for ''cropland in the farm'', and added par. (2).

Subsec. (g). Pub. L. 97–218, § 201(d), added subsec. (g). Former subsec. (g), which related to emergency allotment leases and transfers for 1973 in certain disaster areas in Georgia and South Carolina, was struck out.

Subsec. (h). Pub. L. 97–218, § 201(d), added subsec. (h). Former subsec. (h), which related to emergency allotment leases and transfers for 1974 in certain disaster areas in North Carolina, was struck out.

Subsec. (i). Pub. L. 97–218, § 201(d), struck out subsec. (i) which related to emergency allotment leases and transfers for 1976 in certain disaster areas in Georgia and South Carolina.

1977—Subsec. (c). Pub. L. 95–54 substituted provision allowing leasing of flue-cured tobacco acreage-pound-

age quotas after June 15 of any year only between farms on which at least 80 per centum of the farm acreage allotment was planted for such year for provision which had formerly required only a 50 per centum planting.

1976—Subsec. (i). Pub. L. 94–445 added subsec. (i).

1974—Subsec. (h). Pub. L. 93–464 added subsec. (h).

1973—Subsec. (g). Pub. L. 93–80 added subsec. (g).

1972—Subsec. (c). Pub. L. 92–311 substituted provisions that leases of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of 2,000 pounds filed on or after June 15 in any year will not be effective unless the acreage planted on lessor and lessee farms during that year was 50 per centum of the farm acreage allotment in effect for such year, for provisions that such lease and transfer shall not be effective unless a copy of the lease was filed with the county committee prior to a closing date, not later than the normal planting time in the county, established by the Secretary.

1970—Subsec. (a). Pub. L. 91–284, § 1, authorized leases without limitation to crop years 1962 through 1970, prescribed conditions for permission from Secretary, substituted as excepted from allotment ''Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment'' for ''Burley tobacco acreage allotment or a cigar-filler and cigar binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotment'', authorized lease of all of such allotment or quota, and deleted provision for recognition and consideration of lease and transfer of allotment as valid by the county committee upon compliance with conditions of this section.

Subsec. (b). Pub. L. 91–284, § 2, provided for execution of leases for term of years not exceeding five rather than on an annual basis.

Subsec. (e). Pub. L. 91–284, § 3, prescribed 10 acre limitation on the amount of cigar-filler tobacco types 42, 43, or 44 allotment acreage which may be leased and transferred to any farm.

Subsec. (g). Pub. L. 91–284, § 4, repealed provision for filing of leases for 1965 crop year.

1968—Subsec. (a). Pub. L. 90–559 provided for a one year extension through 1970.

1967—Subsec. (a). Pub. L. 90–6 struck out provision which restricted leasing and transferring of a Maryland tobacco allotment unless at least 75 percent of the allotment for the farm had been actually planted on such farm during each of the two immediately preceding years.

Subsec. (e). Pub. L. 90–52 removed 5 acre limitation on amount of tobacco allotment acreage which may be leased and transferred to any farm.

1966—Subsec. (c). Pub. L. 89–471 inserted proviso which allowed lease and transfer of an allotment notwithstanding failure to file a copy of the lease with the county committee prior to closing date if the Secretary finds that the lease was agreed upon prior to the closing date and the terms of the lease are reduced to writing and filed not later than the 31st day of July of the crop year to which the lease relates.

1965—Subsec. (a). Pub. L. 89–321 extended from 1965 to 1969 the lease privilege for tobacco acreage allotments as well as the prohibition against lease eligibility for Maryland tobacco acreage allotments unless at least 75 per centum of the allotment for the farm was actually planted on such farm during each of the two immediately preceding years.

Subsec. (g). Pub. L. 89–29 substituted ''1965 crop year'' for ''1964 crop year'' and ''June 15, 1965'' for ''June 15, 1964'', and changed the date of filing from within twenty days of August 20, 1964, to within twenty days of May 27, 1965.

1964—Subsec. (g). Pub. L. 88–469, § 1, substituted ''1964 crop year'' for ''1962 crop year'' and ''June 15, 1964'' for ''June 15, 1962'', and changed the date of filing from within twenty days of July 10, 1962 to within twenty days of August 20, 1964.

Subsec. (h). Pub. L. 88–469, § 2, repealed subsec. (h) which related to filing of leases for 1963 crop year.

1963—Subsec. (a). Pub. L. 88–68, § 1(1), extended to crop years 1964 and 1965 provisions permitting lease of tobacco acreage allotments, substituted ''or'' for '', and for the 1963 crop year, other than'', inserted ''1962 or 1963'' before ''allotment'' in the Maryland tobacco provision and precluded the leasing of 1964 or 1965 Maryland tobacco allotment from the farm unless at least 75 per centum of the allotment for the farm was actually planted on such farm during each of the two immediately preceding years.

Subsec. (b). Pub. L. 88–68, § 1(2), required annual basis for leases and eliminated provisions against leases for any period exceeding 1 year and for renewal of 1963 crop year leases, except renewal of 1963 crop year leases for cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55).

Subsec. (h). Pub. L. 88–80 added subsec. (h).

1962—Subsec. (a). Pub. L. 87–824 excepted for the 1963 crop year cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotments.

Subsec. (b). Pub. L. 87–824 inserted proviso prohibiting renewal of lease for 1963 for cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55) tobacco.

Subsec. (g). Pub. L. 87–530 added subsec. (g).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 205(a) of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 206(a) of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 206(b) of Pub. L. 98–180 provided that the amendment made by that section is effective for 1987 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 207 of title II of Pub. L. 97–218 provided that:

''(a) Except as provided in subsection (b), this title [enacting section 1314b–1 of this title and amending this section and sections 1314, 1314c, 1314f, and 1316 of this title] shall take effect on the date of the enactment of this Act [July 20, 1982].

''(b) The amendments made by this title [enacting section 1314b–1 of this title and amending this section and sections 1314, 1314c, 1314f, and 1316 of 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 [July 20, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314b–1, 1314c, 1316 of this title.

§ 1314b–1. Mandatory sale of certain Flue-cured tobacco acreage allotments and marketing quotas

(a) Sale or forfeiture of acreage allotment or marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired

Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual, any partnership, any family farm corporation, any trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or any educational institution that uses a Flue-cured acreage allotment or quota for instructional or demonstration purposes) which, on or after July 20, 1982—

(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this chapter; 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 1314b(g) of this title not later than December 1, 1984, 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) of this section.

(b) Forfeiture of acreage allotment or marketing quota by farmowners on or after December 1, 1983

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[1] for the production of Flue-cured tobacco under this chapter exceeds 50 per centum of such farm's tillable cropland, as defined in section 1314b(e)(2) of this title, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c) of this section. 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.

(c) Notice and opportunity for hearing; determination; review

(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) of this section, then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 1314b(h)(3)(A) of this title.

(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 1363 of this title.

(Feb. 16, 1938, ch. 30, title III, § 316A, as added July 20, 1982, Pub. L. 97–218, title II, § 202, 96 Stat. 205; amended Nov. 29, 1983, Pub. L. 98–180, title II, § 207(a), 97 Stat. 1148.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–180 inserted ", any partnership, any family farm corporation, any trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or any educational institution that uses a Flue-cured acreage allotment or quota for instructional or demonstration purposes" after "any individual" and substituted "1984" for "1983".

EFFECTIVE DATE

Section effective July 20, 1982, but not to 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 that date, see section 207 of Pub. L. 97–218, set out as an Effective Date of 1982 Amendment note under section 1314b of this title.

[1] So in original. Probably should be "allotted".

§ 1314b–2. Mandatory sale of certain Burley tobacco acreage allotments and marketing quotas

(a) Sale or forfeiture of marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired

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 July 20, 1982—

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

(2) does not use the land on the farm for agricultural purposes, or does not use its Burley marketing quota for educational, instructional, or demonstration purposes;

shall sell, not later than December 1, 1984, 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) of this section. Notwithstanding the foregoing provisions of this subsection, any person to whom this subsection, as in effect prior to November 29, 1983, applies and who—

(A) is required to sell or forfeit the marketing quota by December 1, 1983, because the person was not significantly involved in the management or use of the land for agricultural purposes, but

(B) would be eligible to retain the marketing quota under this subsection, as amended by the Tobacco Adjustment Act of 1983,

may, if the person elects to do so, sell such person's marketing quota if a record of the transfer is filed with the county committee by February 1, 1984.

(b) Notice and opportunity for hearing; determination; review

(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) of this section 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.

(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 1363 of this title.

(c) Sale or forfeiture of allotment or quota by subsequent purchaser; notice and opportunity for hearing; determination; review

(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) of this section 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 1363 of this title.

(Feb. 16, 1938, ch. 30, title III, § 316B, as added July 20, 1982, Pub. L. 97–218, title III, § 302, 96 Stat. 210; amended Nov. 29, 1983, Pub. L. 98–180, title II, § 207(b), 97 Stat. 1148.)

REFERENCES IN TEXT

The Tobacco Adjustment Act of 1983, referred to in subsec. (a), is title II of Pub. L. 98–180, Nov. 29, 1983, 97 Stat. 1143. For amendment of subsec. (a) of this section by section 207(b) of Pub. L. 98–180, see 1983 Amendment note below.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–180 substituted in par. (2) ''does not use the land on the farm for agricultural purposes, or does not use its Burley marketing quota for educational, instructional, or demonstration purposes'' for ''is not significantly involved in the management or use of land for agricultural purposes'' and in provision following par. (2) ''1984'' for ''1983'' and inserted in provision following par. (2) provision permitting any person subject to this subsection as in effect prior to Nov. 29, 1983, who would be required to sell or forfeit the marketing quota by Dec. 1, 1983, but would be eligible to retain the marketing quota under this subsection, as amended by the Tobacco Adjustment Act of 1983, to elect to sell the marketing quota if a record of the transfer is filed with the county committee by Feb. 1, 1984.

§ 1314c. Acreage-poundage quotas

(a) Definitions

For purposes of this section—

(1)(A) Except as provided in subparagraph (B), ''national marketing quota'' for any kind of tobacco for a marketing year means the amount of the kind of tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

(B) For the 1986 and each subsequent crop of Flue-cured tobacco, ''national marketing quota'' for a marketing year means the quantity of Flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(i) the aggregate of the quantities of Flue-cured tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 1314g of this title;

(ii) the average annual quantity of Flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

(iii) the quantity, if any, of Flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

(C) Notwithstanding any other provision of law—

(i) the national marketing quota for Flue-cured tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

(ii) the national marketing quota for Flue-cured tobacco for each of the 1990 through 1996 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year, except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that

the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Flue-cured tobacco.

(2) ''National average yield goal'' for any kind of tobacco means the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant. Notwithstanding the preceding sentence, in 1983,,[1] the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield.

(3) ''National acreage allotment'' means the acreage determined by dividing the national marketing quota by the national average yield goal.

(4) ''Farm acreage allotment'' for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by adjusting uniformly the acreage allotment established for such farm for the immediately preceding year, prior to any increase or decrease in such allotment due to undermarketings or overmarketings and prior to any reduction under subsection (f) of this section, so that the total of all allotments is equal to the national acreage allotment less the reserve provided in subsection (e) of this section with a further downward or upward adjustment to reflect any adjustment in the farm marketing quota for overmarketing or undermarketing and to reflect any reduction required under subsection (f) of this section, and including any adjustment for errors or inequities from the reserve. In determining farm acreage allotments for Flue-cured tobacco for 1965, the 1965 farm allotment determined under section 1313 of this title shall be adjusted in lieu of the acreage allotment for the immediately preceding year. Notwithstanding the preceding provisions of this subsection, in 1983,,[1] 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.

(5) The ''community average yield'' means for Flue-cured tobacco the average yield per acre in the community designated by the Secretary as a local administrative area under the provisions of section 590h(b) of title 16 which is determined by averaging the yields per acre for the three highest years of the five years 1959 to 1963, inclusive, except that if the yield for any of the three highest years is less than 80 per centum of the average for the three years then that year or years shall be eliminated and the average of the remaining years shall be the community average yield. Community average yields for other kinds of tobacco shall be determined in like manner, except that the five years 1960 to 1964, inclusive, may be used instead of the period 1959 to 1963, as determined by the Secretary.

(6)(A) ''Preliminary farm yield'' for Flue-cured tobacco means a farm yield per acre determined by averaging the yield per acre for the three highest years of the five consecutive crop years beginning with the 1959 crop year except that if that average exceeds 120 per centum of the community average yield the preliminary farm yield shall be the sum of 50 per centum of the average of the three highest years and 50 per centum of the national average yield goal but not less than 120 per centum of the community average yield, and if the average of the three highest years is less than 80 per centum of the community average yield the preliminary farm yield shall be 80 per centum of the community average yield. In counties where less than five hundred acres of Flue-cured tobacco were allotted for 1964, the county may be considered as one community. If Flue-cured tobacco was not produced on the farm for at least three years of the five-year period the average of the yields for the years in which tobacco was produced shall be used instead of the three-year average. If no Flue-cured tobacco was produced on the farm in the five-year period but the farm is eligible for an allotment because Flue-cured tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community. Notwithstanding the preceding provisions of this subsection, in 1983, 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.

(B) ''Preliminary farm yield'' for kinds of tobacco, other than Flue-cured, means a farm yield per acre determined in accordance with subparagraph (A) of this paragraph (6) except that in lieu of the five consecutive crop years beginning with 1959 the immediately preceding 5 crop years shall be used by the Secretary. In counties where less than five hundred acres of the kind of tobacco for which the determination is being made were allotted in the last year of the five-year period the county may be considered as one community. If tobacco of the kind for which the determination is being made was not produced on the farm for at least three years of the five-year period, the average of the yields for the years in which the kind of tobacco was produced shall be used instead of the three-year average. If no tobacco of the kind for which the determination is being made was produced on the farm in the five-year period but the farm is eligible for an allotment because such tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

[1] So in original.

(7) ''Farm yield'' means the yield of tobacco per acre for a farm determined by multiplying the preliminary farm yield by a national yield factor which shall be obtained by dividing the national average yield goal by a weighted national average yield computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined pursuant to paragraph (4) for the farm prior to adjustments for overmarketing, undermarketing, or reductions required under subsection (f) of this section and dividing the sum of the products by the national acreage allotment.

(8) ''Farm marketing quota'' for any farm for any marketing year shall be the number of pounds of tobacco obtained by multiplying the farm yield by the acreage allotment prior to any adjustment for undermarketing or overmarketing, increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediately preceding marketing year, if marketing quotas were in effect under the program established by this section, is less than or exceeds the farm marketing quota for such year: *Provided*, That the farm marketing quota for any marketing year shall not be increased for undermarketing by an amount in excess of the number of pounds determined by multiplying the acreage allotment for the farm for the immediately preceding year prior to any increase or decrease for undermarketing or overmarketing by the farm yield. If on account of excess marketings in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made for the subsequent marketing year or years. The farm marketing quota will be increased or decreased for the second succeeding marketing year in the case of Maryland tobacco, and for any other kind of tobacco for which the Secretary determines it is impracticable because of the lack of adequate marketing data, to make the increases or decreases applicable to the immediately succeeding marketing year.

(b) National marketing quota, acreage allotment and average yield goal for Flue-cured tobacco; referendum

Within thirty days after April 16, 1965 the Secretary pursuant to the provisions of subsection (a) of this section shall determine and announce the amount of the national marketing quota for Flue-cured tobacco for the marketing year beginning July 1, 1965, and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco, and within thirty days after the announcement of the amount of such national marketing quota shall conduct a special referendum of the farmers engaged in the production of Flue-cured tobacco of the 1964 crop to determine whether they favor or oppose the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967, in lieu of quotas on an acreage basis in effect for those marketing years. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis, marketing quotas on an acreage-poundage basis as provided in this section shall be in effect for those marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period.

(c) Tobacco having marketing quotas on acreage basis; determination of Secretary of program on acreage-poundage basis; announcement of national marketing quota, acreage allotment and average yield goal; referendum

Whenever, during the first or second marketing year of the three-year period for which marketing quotas on an acreage basis are in effect for any kind of tobacco, including Flue-cured tobacco, the Secretary, in his discretion, determines with respect to that kind of tobacco that acreage-poundage quotas under this section would result in a more effective marketing quota program for that kind of tobacco he shall at the time[2] the next announcement of the amount of the national marketing quota under section 1312(b) of this title determine and announce the amount of the national quota for that kind of tobacco under this section and at the same time announce the national acreage allotment and national average yield goal and within forty-five days thereafter conduct a special referendum of farmers engaged in the production of the kind of tobacco of the most recent crop to determine whether they favor the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the next three marketing years: *Provided, however*, That the Secretary shall not make any such determination with respect to any kind of tobacco except Flue-cured tobacco unless prior thereto he shall conduct public hearings in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis as provided in this section, quotas on that basis shall be in effect for the next three 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 an acreage-poundage basis are not approved by more than 66⅔ per centum of the farmers voting in such referendum, the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under section 1312(a) of this title.

(d) Proclamation of national marketing quota for three years following last year of three years of acreage-poundage quotas; referendum; notice of farm marketing quota to farm operators

If marketing quotas have been made effective for a kind of tobacco on an acreage-poundage basis pursuant to subsections (b) or (c) of this section the Secretary shall, not later than De-

[2] So in original.

cember 15 of any marketing year with respect to Flue-cured tobacco, and March 1 with respect to other kinds of tobacco, proclaim a national marketing quota for that kind of tobacco for the next three succeeding marketing years if the marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. Notwithstanding the foregoing sentence, the proclamation of the national marketing quota for the 1986 crop of Flue-cured tobacco may be made not later than December 31, 1985. The Secretary, in his discretion, may proclaim the quota on an acreage-poundage basis as provided in this section or on an acreage allotment basis, whichever he determines would result in a more effective marketing quota for that kind of tobacco, and shall conduct a referendum in accordance with the provisions of section 1312(c) of this title. Notwithstanding the foregoing sentence or section 1312(c) of this title, the referendum with respect to national marketing quotas for Flue-cured tobacco for the 1986 through 1988 marketing years may be conducted not later than the earlier of (1) thirty days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after January 30, 1986, or (2) March 15, 1986. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas the results shall be proclaimed and the national marketing quota so proclaimed shall not be in effect. If the Secretary proclaims the quotas on an acreage-poundage basis he shall determine and proclaim at the same time the national marketing quota, national acreage allotment, and national average yield goal for the first year of the three years for which quotas are proclaimed. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by the referendum insofar as practicable shall be mailed to the farm operator prior to the holding of any special referendum under subsection (b) of this section or a referendum on acreage-poundage quotas under this subsection, and at least 15 days prior to the holding of any special referendum under subsection (c) of this section. The Secretary shall determine and announce the national marketing quota, national acreage allotment and national average yield goal for the second and third marketing years of any three-year period for which national marketing quotas on an acreage-poundage basis are in effect on or before the December 15 with respect to Flue-cured tobacco and the March 1 with respect to other kinds of tobacco immediately preceding the beginning of the marketing year to which they apply. Whenever a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of farm acreage allotments and farm marketing quotas under the provisions of this section for the crop and marketing year covered by the determinations. Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Flue-cured tobacco not later than 21 days after April 7, 1986. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Flue-cured tobacco made by the Secretary prior to April 7, 1986, shall become void on April 7, 1986.

(e) Nonestablishment of farm acreage allotment or farm yield for farms without tobacco production for five years; reserve; "new farms" defined; acreage allotment and farm yield basis of new farms

No farm acreage allotment or farm yield shall be established for a farm on which no tobacco was produced or considered produced under applicable provisions of law for the immediately preceding five years. For each marketing year for which acreage-poundage quotas are in effect under this section the Secretary in his discretion may establish a reserve from the national acreage allotment in an amount equivalent to not more than 3 per centum of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding five years (except that not less than two-thirds of such reserve shall be for new farms). The part of the reserve held for apportionment to new farms shall be allotted on the basis of land, labor, and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco-producing experience of the farm operator. The farm yield for any farm for which a new farm acreage allotment is established shall be determined on the basis of available productivity data for the land involved and farm yields for similar farms.

(f) Acreage reduction penalties applicable to acreage-poundage programs; farm marketing quota reductions; filing false reports; increases or decreases in acreage allotments and farm yields for other farms of owner displaced by agency acquisition of farms; leases and sales of acreage allotments and farm marketing quotas; ratification of transfers of acreage allotments

Only the provisions of the last two sentences of subsection (g) of section 1313 of this title shall apply with respect to acreage-poundage programs established under this section. The acreage reductions required under the last two sentences shall be in addition to any other adjustments made pursuant to this section, and when acreage reductions are made the farm marketing quota shall be reduced to reflect such reductions. The provisions of the next to the last sentence of such subsection pertaining to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the production or marketings of tobacco grown on a farm for which an acreage allotment and a farm yield are established as provided in this section. In establishing acreage allotments and farm yields for other farms owned by the owner displaced by acquisition of his land by any agency, as provided in section 1378 of this title, increases or decreases in such acreage allotments and farm yields as provided in this section shall be made on account of marketings

below or in excess of the farm marketing quota for the farm acquired by the agency. Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 1314b of this title) be leased and sold under the terms and conditions contained in section 1314b of this title, except that (1) the adjustment provided for in the last sentence of subsection (c) of said section shall be based on farm yields rather than normal yields, and (2) any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred. Transfers of acreage allotments for 1965 under section 1314b of this title on the basis of leases executed prior to the effective date of a program for the 1965 crop of Flue-cured tobacco under this section may be approved or ratified by the county committee for the purposes of this section, but the amount of allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased under this section.

(g) Marketing penalties

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 103 per centum (120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section) of the farm marketing quota for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota will require a reduction in subsequent farm marketing quotas in accordance with subsection (a)(8) of this section: *Provided, however*, If the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N_2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco in a marketing year without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced.

(2) When marketing quotas established under this section are in effect the provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: ''If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer.''

(3) For the first year a marketing quota program established under the provisions of this section is in effect, the words ''normal production'' where they appear in the fourth sentence of subsection (a) of section 1314 of this title shall be read ''farm yield'' and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section is in effect, the provisions of subsection (a)(8) of this section apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable.

(h) Burley tobacco; acreage-poundage basis: farm acreage allotment and farm marketing quota, adjustments for overmarketing or undermarketing, reductions for violations; acreage and quota additional to national acreage allotment and national marketing quota; acreage basis: acreage allotment, amendment of clause (1) and proviso of section 1315

Notwithstanding any other provision of this section, for any year subsequent to the first year for which marketing quotas are made effective under this section for Burley tobacco—

(1) the farm acreage allotment for Burley tobacco under this section shall not be less than the smallest of (A) the acreage allotment established for the farm for such first year, (B) five-tenths of an acre, or (C) 10 per centum of the cropland; and

(2) the farm marketing quota for Burley tobacco under this section shall not be less than the minimum allotment provided by clause (1) multiplied by the farm yield established for such first year for such farm.

Farm acreage allotments and marketing quotas to which the provisions of (1) and (2) are applicable shall be subject to adjustment for overmarketing or undermarketing or reductions required by subsection (f) of this section. The additional acreage and quotas required under the subsection shall be in addition to the national acreage allotment and national marketing quota.

Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of section 1315 of this title instead of under the preceding provisions of this subsection;

(B) clause (1) of section 1315 of this title shall for such purpose read as follows: ''(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis''; and

(C) the proviso of section 1315 of this title shall for such purpose read as follows: ''*Provided, however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis''.

(i) Consultations with industry representatives respecting a program for each kind of tobacco, studies of Flue-cured tobacco acreage-poundage program, report and recommendations to congressional committees, upon referendum approval of Flue-cured tobacco acreage-poundage program

If an acreage-poundage program for Flue-cured tobacco is approved by growers voting in the special referendum under subsection (b) of this section, the Secretary shall not later than January 1, 1966—

(1) Consult with representatives of all segments of the tobacco industry, including growers, State farm organizations, and cooperative associations, in meetings held for each kind of tobacco, to receive their recommendations and to determine the need for a similar or modified program for that kind of tobacco.

(2) Conduct a study and report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on experience with and operation of the program, and make recommendations for any modifications needed to improve the program, including alternatives adapted to the different needs of other kinds of tobacco.

(j) Treatment of falsely identified tobacco for purposes of establishing future farm marketing quotas

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.

(k) Forfeiture of allotment and quota

(1) Notwithstanding any other provision of law, any person who, on or after January 1, 1986, owns a farm for which a Flue-cured tobacco acreage allotment or marketing quota is established under this chapter shall, subject to paragraph (2) of this subsection, forfeit such allotment or quota after February 15 of any year immediately following the last year of the three-year period immediately preceding the year for which the determination is being made in which Flue-cured tobacco has not been planted or considered planted on such farm during at least two years out of such three-year period.

(2) The allotment or quota specified in paragraph (1) of this subsection shall be forfeited if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture specified in such paragraph exist. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in section 1314b(g)(1) of this title) in the county involved.

(3) Notice of any determination made by the county committee under paragraph (2) of this subsection shall be mailed, as soon as practicable, to the person involved. If such person is dissatisfied with such determination, such person may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 1363 of this title.

(*l*) Determination of Flue-cured tobacco planted acreage

The Secretary shall determine the acreage planted to Flue-cured tobacco on each farm whenever an acreage-poundage program for Flue-cured tobacco is in effect under this section.

(Feb. 16, 1938, ch. 30, title III, § 317, as added Apr. 16, 1965, Pub. L. 89–12, § 1, 79 Stat. 66; amended June 19, 1970, Pub. L. 91–284, § 5, 84 Stat. 314; July 20, 1982, Pub. L. 97–218, title II, §§ 203, 205(a), 206(b), 96 Stat. 205–207; Nov. 29, 1983, Pub. L. 98–180, title II, §§ 205(b), 208–210, 97 Stat. 1147–1149; Dec. 13, 1985, Pub. L. 99–182, § 4, 99 Stat. 1173; Jan. 30, 1986, Pub. L. 99–241, § 1, 100 Stat. 3; Apr. 7, 1986, Pub. L. 99–272, title I, §§ 1103(b), 1104(c), 1105(a)(1), 100 Stat. 86, 89, 90; Dec. 22, 1987, Pub. L. 100–203, title I, § 1112(b), 101 Stat. 1330–8; Oct. 30, 1989, Pub. L. 101–134, § 2(a)(2), 103 Stat. 781; Aug. 10, 1993, Pub. L. 103–66, title I, § 1106(d)(2), 107 Stat. 323; Nov. 2, 1994, Pub. L. 103–437, § 4(a)(5), 108 Stat. 4581.)

AMENDMENTS

1994—Subsec. (i)(2). Pub. L. 103–437 substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

1993—Subsec. (a)(1)(C)(ii). Pub. L. 103–66 substituted ''1996'' for ''1993'' and inserted before period at end '', except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Flue-cured tobacco.

1989—Subsec. (a)(6)(B). Pub. L. 101–134 substituted ''immediately preceding 5 crop years shall be used by the Secretary'' for ''years 1960 to 1964, inclusive, may be used, as determined by the Secretary''.

1987—Subsec. (a)(2), (4), (6)(A). Pub. L. 100–203, which directed that subsec. (a) ''is amended by striking out 'and at five-year intervals thereafter' each place it appears in paragraphs (2), (4), and (6)(A)'' was executed by striking out ''and at five-year intervals thereafter'' after ''in 1983,'' in pars. (2) and (4), and after ''in 1983'' in par. (6)(A), as the probable intent of Congress.

1986—Subsec. (a)(1). Pub. L. 99–272, § 1103(b), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B), 'national marketing quota' '' for '' 'National marketing quota' '', and added subpars. (B) and (C).

Subsec. (d). Pub. L. 99–272, § 1104(c), inserted provisions relating to the proclamation of the national marketing quota for Flue-cured tobacco not later than 21 days after Apr. 7, 1986, and declaring as void any quota by proclamation prior to that date.

Pub. L. 99–241 inserted provision that the referendum with respect to national marketing quotas for Flue-cured tobacco for 1986 through 1988 marketing years may be conducted not later than the earlier of 30 days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after Jan. 30, 1986, or Mar. 15, 1986.

Subsec. (g)(1). Pub. L. 99–272, § 1105(a)(1), substituted ''103 per centum'' for ''110 per centum''.

1985—Subsec. (d). Pub. L. 99–182 inserted ''Notwithstanding the foregoing sentence, the proclamation of the national marketing quota for the 1986 crop of Flue-

cured tobacco may be made not later than December 31, 1985.''

1983—Subsec. (d). Pub. L. 98–180, § 208, substituted ''December 15'' for ''December 1'' and ''March 1'' for ''February 1'' wherever appearing.

Subsec. (e). Pub. L. 98–180, § 209, substituted ''3 per centum'' for ''1 per centum'' and ''five years (except that not less than two-thirds of such reserve shall be for new farms)'' for ''five years'' and struck out '', and shall not exceed the community average yield'' after ''similar farms''.

Subsec. (k). Pub. L. 98–180, § 205(b), added subsec. (k).

Subsec. (*l*). Pub. L. 98–180, § 210, added subsec. (*l*).

1982—Subsec. (a)(2). Pub. L. 97–218, § 203(1), inserted provision that notwithstanding the preceding sentence of this subsection, during 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.

Subsec. (a)(4). Pub. L. 97–218, § 203(2), inserted provision that notwithstanding the preceding provisions of subsec. (a), 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 not available, on such other data on yields as the Secretary may deem appropriate.

Subsec. (a)(6)(A). Pub. L. 97–218, § 203(3), inserted provision that 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 subsec. (a)(4) to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.

Subsec. (f). Pub. L. 97–218, § 205(a), substituted ''be leased and sold under the terms and conditions'' for ''be leased under the terms and conditions'' in fifth sentence.

Subsec. (j). Pub. L. 97–218, § 206(b), added subsec. (j).

1970—Subsec. (f). Pub. L. 91–284 struck out ''Burley tobacco or other'' before ''kinds of tobacco'' in fifth sentence.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1105(a) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 205(b) of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–218 effective July 20, 1982, but not to 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 that date, see section 207 of Pub. L. 97–218, set out as a note under section 1314b of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

TOBACCO DEFINITION AND INCREASE OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS TO MEET DEMAND UNAFFECTED BY ACREAGE-POUNDAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Section 4 of Pub. L. 89–12 provided that: ''Nothing in this Act [enacting this section and amending sections 1313 and 1445 of this title] shall be construed as affecting the authority or responsibility of the Secretary of Agriculture under section 301(b)(15) [section 1301(b)(15) of this title] or section 313(i) [section 1313(i) of this title] of the Agricultural Adjustment Act of 1938 with respect to providing that different types of tobacco shall be treated as different kinds of tobacco, or with respect to increasing allotments or quotas for farms producing certain types of tobacco.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1313, 1316, 1445 of this title.

§ 1314d. Fire-cured, dark air-cured, and Virginia sun-cured tobacco

(a) Sale or lease of acreage allotments and acreage-poundage quotas

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support programs, (1) may permit the owner and operator of any farm for which a Fire-cured, dark air-cured, or Virginia sun-cured tobacco acreage allotment or acreage-poundage quota is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment or quota to any other owner or operator of a farm for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment or quota to any other farm owned or controlled by him.

(b) Conditions for transfers

Transfers under this section shall be subject to the following conditions: (1) except as provided in section 1379(b) of this title, no allotment or quota shall be transferred to a farm in another county: *Provided*, That in the case of Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37, any such transfer may be made to a farm in another county in the same State; (2) no transfer other than by annual lease of an allotment or quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section.

(c) Transfer of acreage history and marketing quota

The transfer of an allotment or quota under this section shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment or quota and if the transfer is made prior to the determination of the allotment or quota for any year the transfer shall include the right of the owner or operator to have an allotment or quota determined for the farm for such year: *Provided*, That in the case of a transfer by lease the amount of the allotment or quota shall be considered for purposes of determining allotments or quotas after

the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) Five-year restriction on new farm allotments or quotas

The land in the farm from which the entire tobacco allotment or quota has been transferred shall not be eligible for a new farm tobacco allotment or quota during the five years following the year in which such transfer is made.

(e) Allotment adjustment

The transfer of an allotment or quota under this section shall be approved acre for acre.

(f) Lease term

Any lease under this section may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(g) Acreage transfer maximums

Under the provisions of this section not more than ten acres of allotment may be transferred to any farm: *Provided*, That the total acreage allotted to any farm after such transfer shall not exceed 50 per centum of the acreage of cropland in the farm.

(h) Future allotments; referendum voting eligibility

The lease of any part of a tobacco acreage allotment or acreage-poundage quota under this section determined for a farm shall not affect the allotment or quota for the farm from which such allotment or quota is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment and acreage-poundage quota which is leased from a farm shall be considered for purposes of determining future allotments and quotas to have been planted to tobacco on the farm from which such allotment or quota is leased and the production pursuant to the lease shall not be taken into account in establishing allotments or quotas for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of tobacco for purposes of eligibility to vote in the referendum.

(i) Land utilization agreements; payment adjustments

If the sale or transfer under this section occurs during a period in which the farm is covered, by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(j) Rules and regulations

The Secretary shall prescribed such regulations and other terms and conditions as he deems necessary for the administration of this section.

(Feb. 16, 1938, ch. 30, title III, § 318, as added July 7, 1967, Pub. L. 90–51, § 1, 81 Stat. 120; amended July 5, 1968, Pub. L. 90–387, 82 Stat. 293; Oct. 23, 1971, Pub. L. 92–144, 85 Stat. 393; Nov. 29, 1983, Pub. L. 98–180, title II, § 212(a), 97 Stat. 1149; Oct. 28, 1992, Pub. L. 102–566, § 1, 106 Stat. 4269.)

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–566 added subsec. (e) and struck out former subsec. (e) which read as follows: ''If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred.''

1983—Subsec. (b). Pub. L. 98–180 inserted ''except as provided in section 1379(b) of this title,'' after ''(1)''.

1971—Subsec. (b)(1). Pub. L. 92–144 inserted proviso referring to Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37.

1968—Subsec. (b)(2). Pub. L. 90–387 inserted ''other than by annual lease'' after ''no transfer''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314e of this title.

§ 1314e. Farm poundage quotas for certain kinds of tobacco

(a) Proclamations and referenda regarding burley tobacco

Notwithstanding any other provision of law, the Secretary shall, within thirty days following April 14, 1971, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, 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 1970 crop of burley tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis as provided in this section for the three marketing years beginning October 1, 1971. If the Secretary determines that two-thirds or more of the farmers voting in such referendum approve marketing quotas on a poundage basis, marketing quotas as provided in this section shall be in effect for those three marketing years. If marketing quotas on a poundage basis are not approved by at least two-thirds of the farmers voting in such referendum, no marketing quotas or price support for burley tobacco shall be in effect for the marketing year beginning October 1, 1971. Thereafter, the provisions of section 1312 of this title shall apply: *Provided*, That national marketing quotas for burley tobacco for any marketing year subsequent to the marketing year beginning October 1, 1971, shall be proclaimed as provided in this section.

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 burley tobacco under this section, the amount of the national marketing quota for each of such years. If marketing quotas have been made effective on a poundage basis for burley tobacco under this section, the Secretary shall, not later than February 1 of the last year of three consecutive marketing years for which marketing quotas are in effect for burley tobacco under this section, proclaim national marketing quotas for burley tobacco for the next three succeeding marketing years as provided in this section. Notwithstanding the foregoing sentence, the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than March 1, 1986. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 1312(c) of this title. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas, he shall announce the results and no marketing quotas or price support shall be in effect for burley tobacco for the first marketing year of such three-year period. Thereafter, the provisions of section 1312 of this title shall apply: *Provided*, That the national marketing quota and farm marketing quotas shall be determined for burley tobacco as provided in this section. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by any referendum under this section shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the referendum. Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Burley tobacco not later than 21 days after April 7, 1986, or February 1, 1986, whichever is later. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Burley tobacco made by the Secretary prior to April 7, 1986, shall become void on April 7, 1986.

(b) Proclamations and referenda regarding dark air-cured tobacco and types 22 and 23 fire-cured tobacco

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 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 chapter.

The Secretary shall determine and announce, not later than the March 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 March 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 to-

bacco 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 accordance with section 1312(c) of this title. 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 1312 of this title 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.

(c) Amount of national marketing quota, determination; national reserve, establishment

(1) Except as provided in paragraph (3), the national marketing quota determined under this section for any kind of tobacco for which poundage quotas may be established for any marketing year shall be the amount of such kind of tobacco produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level.

(2) For each marketing year for which marketing quotas are in effect for a kind of tobacco under this section, the Secretary in his discretion may establish a reserve with respect to such kind of tobacco (hereinafter referred to as the ''national reserve'') from the national marketing quota for such kind of tobacco in an amount not in excess of 1 per centum of such national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

(3)(A) For the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year shall be the quantity of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(i) the aggregate of the quantities of Burley tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 1314g of this title;

(ii) the average annual quantity of Burley tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

(iii) the quantity, if any, of Burley tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

(B) In determining the quantity of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under subparagraph (A)(iii)—

(i) the Secretary shall provide for initially attaining the reserve stock level over a period of 5 years; and

(ii) any downward adjustment in such inventories of Burley tobacco may not exceed the greater of—

(I) 35,000,000 pounds; or

(II) 50 percent of the quantity by which—

(aa) the total inventories of Burley tobacco of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco; exceed

(bb) the reserve stock level for Burley tobacco.

(C) Notwithstanding any other provision of law—

(i) the national marketing quota for Burley tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

(ii) the national marketing quota for Burley tobacco for each of the 1990 through 1996 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year, except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Burley tobacco.

(d) Farm yields; determination; limitation

When a national marketing quota is first proclaimed for a kind of tobacco under this section, the Secretary shall through local committees determine a farm yield for each farm for which an acreage allotment for such kind of tobacco was established for the marketing year beginning October 1, 1970, in the case of burley tobacco, and for the previous marketing year, in the case of dark air-cured tobacco and fire-cured tobacco. Such yield shall be determined by averaging the yield per acre for the four highest

years of the five consecutive years beginning with the 1966 crop year, in the case of burley tobacco, and the immediately preceding 5 crop years, in the case of dark air-cured tobacco and fire-cured tobacco: *Provided*, That if the kind of tobacco involved was produced on the farm in fewer than five of such years, the farm yield shall be the simple average of the yields obtained in the years during such period that such kind of tobacco was produced on the farm: *Provided further*, That if no such kind of tobacco was produced on the farm but the farm was considered as having planted such kind of tobacco during the immediately preceding five years, the farm yield will be appraised on the basis of the yields established for similar farms in the area on which such kind of tobacco was produced during such five-year period: *And provided further*, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre, 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.

(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation

A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the chapter) established for such farm for the marketing year beginning October 1, 1970. 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 previous marketing year, 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 previous marketing year. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided*, That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year: *Provided*, That, except in the case of Burley tobacco, such national factor shall not be less than 90 per centum: *Provided further*, That for the marketing years beginning October 1, 1972, and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided*, That any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided*, That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past experience of the farm operator with respect to the kind of tobacco involved: the land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of such kind of tobacco: *Provided*, That the farm marketing quota for any such new farm shall not exceed 50 per centum of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further*, That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f) Reductions for false information

When a poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for any farm shall be reduced by the amount of such kind of tobacco produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or

aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided*, That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g) Leases and transfers of farm quotas; limitations

(1) When a poundage program is in effect for any kind of tobacco under this section, farm marketing quotas (after adjustments) for such kind of tobacco may be leased and transferred to other farms in the same county under the terms and conditions contained in section 1314d of this title: *Provided*, That such leases and transfers shall be on a pound for pound basis: *Provided further*, That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: *Provided further*, That not more than thirty thousand pounds of Burley tobacco quota may be leased and transferred to any farm under this section: *Provided further*, That a lease and transfer of Burley tobacco quota shall not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year or, if such record of the transfer is filed with the county committee after July 1, the county committee determines with the concurrence of the State committee that all interested parties agreed to such lease and transfer before July 1 and that the failure to file such record of the transfer did not result from gross negligence on the part of any party to such lease and transfer: *And provided further*, That the marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

(2) Effective for the 1991 and subsequent crop years, the Secretary may, during any one year, and subject to such rules as the Secretary deems appropriate, permit the sale of a burley tobacco quota from one farm to another farm in the same county if the buyer, who is an active burley tobacco producer, is not buying an amount larger than 30 percent of the existing quota for the buyer's farm, or 20,000 pounds whichever is greater. For purposes of this subsection, the term ''active burley tobacco producer'' means any person who shared in the risk of producing a crop of burley tobacco in not less than one of the three years preceding the year involved, or any person who certified to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, their intent to become an active burley tobacco producer. 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 percent of the proceeds of the sale of such crop;

(B) the investment 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) No sale of burley tobacco quota from a farm shall be permitted, under paragraph (2), if any sale of quota to the same farm has been made within the three immediately preceding crop years. A sale of burley tobacco quota shall not be effective for a crop year unless a record of the sale is filed with the county committee not later than July 1 of the crop year. The marketing quota determined for any farm subsequent to such sale shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 percent of the acreage of cropland in the farm.

(h) Loss of quotas through underplanting

Effective with the marketing year beginning October 1, 1994, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any two of the three years immediately preceding the year for which farm marketing quotas are being established.

(i) Marketing penalties

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 103 per centum of the farm marketing quota (after adjustments) for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota (after adjustments) will require a reduction in subsequent farm marketing quotas in accordance with subsection (e) of this section: *Provided*, That if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of the kind of tobacco involved during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

(2) The provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: ''If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the pen-

alty in respect thereof shall be paid and remitted by the producer.''

(3) The provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable. For the first year a marketing quota program established under the provisions of this section is in effect with respect to burley tobacco, the farm marketing quota determined under the provisions of subsection (e) of this section shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of subsection (c) of this section shall apply.

(j) Regulations

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(k) Lease and transfer of burley tobacco quota assigned

(1) Notwithstanding any other provision of this section, the Secretary may permit, after July 1 of any crop year, the lease and transfer of burley tobacco quota assigned to a farm if—

(A) the planted acreage of burley tobacco on the farm to which the quota is assigned is determined by the Secretary to be sufficient to produce the effective farm marketing quota under average conditions; and

(B) the farm's expected production of burley tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

(2) Any lease and transfer of quota under this subsection may be made to any other farm within the same State in accordance with regulations issued by the Secretary.

(*l*) Lease and transfer of burley tobacco quotas in Tennessee and Virginia

Notwithstanding any other provision of this section, the Secretary may permit the lease and transfer of a burley tobacco quota from one farm in a State to any other farm in the State if a majority of active burley tobacco producers within the State approve such lease and transfer by a state-wide referendum to be conducted by the Secretary. This subsection shall apply only to the States of Tennessee and Virginia.

(Feb. 16, 1938, ch. 30, title III, § 319, as added Apr. 14, 1971, Pub. L. 92–10, § 1, 85 Stat. 23; amended July 20, 1982, Pub. L. 97–218, title III, § 303(b)–(j), 96 Stat. 211–214; July 25, 1983, Pub. L. 98–59, § 2, 97 Stat. 296; Nov. 29, 1983, Pub. L. 98–180, title II, § 211, 97 Stat. 1149; Jan. 30, 1986, Pub. L. 99–241, § 2, 100 Stat. 3; Apr. 7, 1986, Pub. L. 99–272, title I, §§ 1103(c), 1104(b), (d), 1105(a)(2), 1107, 100 Stat. 86, 89–91; Aug. 11, 1988, Pub. L. 100–387, title III, § 304(a)(1), 102 Stat. 948; Oct. 30, 1989, Pub. L. 101–134, § 2(a)(1), 103 Stat. 781; Nov. 15, 1990, Pub. L. 101–577, § 2(a), (b), (d), (e), 104 Stat. 2856, 2857; Dec. 13, 1991, Pub. L. 102–237, title I, § 116(1), 105 Stat. 1840; Aug. 10, 1993, Pub. L. 103–66, title I, § 1106(d)(1), 107 Stat. 323.)

REFERENCES IN TEXT

The chapter, referred to in subsec. (e), was in the original ''the Act'' meaning act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, known as the Agricultural Adjustment Act of 1938, which is classified principally to this chapter (§ 1281 et seq.).

AMENDMENTS

1993—Subsec. (c)(3)(C)(ii). Pub. L. 103–66 substituted ''1996'' for ''1993'' and inserted before period at end '', except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Burley tobacco''.

1991—Subsec. (*l*). Pub. L. 102–237 inserted ''in a State'' after ''one farm'', struck out ''of Tennessee'' after ''in the State'', and inserted at end ''This subsection shall apply only to the States of Tennessee and Virginia.''

1990—Subsec. (g). Pub. L. 101–577, § 2(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 101–577, § 2(d), substituted ''thirty thousand pounds'' for ''fifteen thousand pounds''.

Subsec. (h). Pub. L. 101–577, § 2(b), substituted ''1994'' for ''1976'' and ''two of the three'' for ''of the five''.

Subsec. (*l*). Pub. L. 101–577, § 2(e), added subsec. (*l*).

1989—Subsec. (d). Pub. L. 101–134, § 2(a)(1)(A), substituted ''for the previous marketing year'' for ''October 1, 1982'' and ''immediately preceding 5 crop years'' for ''1978 crop year''.

Subsec. (e). Pub. L. 101–134, § 2(a)(1)(B), substituted ''previous marketing year'' for ''October 1, 1982'' wherever appearing in second sentence.

1988—Subsec. (k). Pub. L. 100–387 added subsec. (k).

1986—Subsec. (a). Pub. L. 99–272, § 1104(d), inserted provisions in third par. relating to the proclamation of the national marketing quota for Burley tobacco not later than 21 days after Apr. 7, 1986, or Feb. 1, 1986, whichever is later, and declaring as void any quota by proclamation prior to that date.

Pub. L. 99–241 inserted in third par. provision that the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than Mar. 1, 1986.

Subsec. (b). Pub. L. 99–272, § 1104(b), which directed the substitution of ''March 1'' for ''February 1'' wherever appearing in the fourth paragraph, was executed by making the substitution in the third paragraph, as the probable intent of Congress.

Subsec. (c). Pub. L. 99–272, § 1103(c)(1), designated existing provisions as pars. (1) and (2), and in par. (1) as so designated, substituted ''Except as provided in paragraph (3), the'' for ''The'', struck out ''With respect to burley tobacco, any such downward adjustment shall not exceed 10 per centum of such estimated utilization and exports.'', and added par. (3).

Subsec. (e). Pub. L. 99–272, § 1103(c)(2), inserted in second par. '', except in the case of Burley tobacco,'' after ''*Provided*, That''.

Subsec. (g). Pub. L. 99–272, § 1107, inserted provisions relating to filing of record of transfer after July 1 with the concurrence of the State committee that all parties agreed to such lease and transfer before July 1, and that failure to file did not result from gross negligence.

Subsec. (i)(1). Pub. L. 99–272, § 1105(a)(2), substituted ''103 per centum'' for ''110 per centum''.

1983—Subsec. (c). Pub. L. 98–59, § 2(1), substituted ''10 per centum'' for ''5 per centum'' after ''downward adjustment shall not exceed''.

Subsec. (e). Pub. L. 98–59, § 2(2), substituted in second par. ''90 per centum'' for ''95 per centum'' after ''*Provided*, That such national factor shall not be less than''.

Subsec. (g). Pub. L. 98–180 substituted provisos that not more than fifteen thousand pounds of Burley tobacco quota be leased and transferred to any farm under this section and that a lease or transfer of Burley tobacco quota not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year for proviso that not more than thirty thousand pounds of burley tobacco be leased and transferred to any farm under this section.

1982—Subsec. (a). Pub. L. 97–218, § 303(b), transferred former provisions of subsec. (b) into subsec. (a), as unlettered third paragraph of subsec. (a), and, in that paragraph, substituted ''shall be in effect for burley tobacco'' for ''shall be in effect for such kind of tobacco'' in fourth sentence thereof, inserted ''for burley tobacco'' before ''under this section'' wherever appearing in first and second sentences thereof, and before ''as provided in this section'' in second proviso.

Subsec. (b). Pub. L. 97–218, § 303(c), added subsec. (b). Former subsec. (b) was transferred into subsec. (a) as an unlettered paragraph and amended.

Subsec. (c). Pub. L. 97–218, § 303(d), substituted ''The national marketing quota determined under this section for any kind of tobacco for which poundage quotas may be established for any marketing year shall be the amount of such kind of tobacco produced'' for ''The national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced'', substituted ''With respect to burley tobacco, any such downward adjustment'' for ''Any such downward adjustment'', substituted ''marketing quotas are in effect for a kind of tobacco under this section'' for ''marketing quotas are in effect under this section'', and substituted ''from the national marketing quota for such kind of tobacco in an amount not in excess of 1 per centum of such national marketing quota'' for ''from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota''.

Subsec. (d). Pub. L. 97–218, § 303(e), substituted ''first proclaimed for a kind of tobacco under this section'' for ''first proclaimed under this section'', substituted ''for which an acreage allotment for such kind of tobacco was established'' for ''for which a burley tobacco acreage allotment was established'', inserted '', in the case of burley tobacco, and October 1, 1982, in the case of dark air-cured tobacco and fire-cured tobacco'' following ''beginning October 1, 1970'', substituted ''the 1966 crop year, in the case of burley tobacco, and the 1978 crop year, in the case of dark air-cured tobacco and fire-cured tobacco'' for ''the 1966 crop year'', substituted ''*Provided*, That if the kind of tobacco involved was produced'' for ''*Provided*, That if burley tobacco was produced'', substituted ''such kind of tobacco'' for ''burley tobacco'' wherever appearing in the remainder of the first proviso and in the second proviso, in the third proviso substituted ''*And provided further*, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre, in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco:'' for ''*And provided further*, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre'', and inserted fourth proviso.

Subsec. (e). Pub. L. 97–218, § 303(f), inserted provision regarding the determination of preliminary farm marketing quotas 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, in fourth sentence substituted ''for all farms for which marketing quotas for the kind of tobacco involved will be determined'' for ''for all farms for which burley tobacco marketing quotas will be determined'', and in seventh sentence substituted ''experience of the farm operator with respect to the kind of tobacco involved; the land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of such kind of tobacco'' for ''burley tobacco experience of the farm operator; the land, labor, and equipment available for the production of burley tobacco; crop rotation practices, and the soil and other physical factors affecting the production of burley tobacco''.

Subsec. (f). Pub. L. 97–218, § 303(g), substituted ''When a poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for any farm shall be reduced by the amount of such kind of tobacco'' for ''When a poundage program is in effect under this section, the farm marketing quota next established for any farm shall be reduced by the amount of burley tobacco''.

Subsec. (g). Pub. L. 97–218, § 303(h), substituted ''When a poundage program is in effect for any kind of tobacco under this section, farm marketing quotas (after adjustments) for such kind of tobacco'' for ''When a poundage program is in effect under this section, farm marketing quotas (after adjustments) for burley tobacco'', and substituted ''*Provided further*, That not more than thirty thousand pounds may be leased and transferred to any farm under this section with respect to burley tobacco'' for ''*Provided further*, That not more than fifteen thousand pounds may be leased and transferred to any farm under this section''.

Subsec. (i)(1). Pub. L. 97–218, § 303(i)(1), substituted ''to encourage additional marketings of any grades of the kind of tobacco involved'' for ''to encourage additional marketings of any grades of burley tobacco'' in proviso.

Subsec. (i)(3). Pub. L. 97–218, § 303(i)(2), substituted ''is in effect with respect to burley tobacco'' for ''is in effect''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1105(a) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1107 of Pub. L. 99–272 provided that the amendment made by that section is effective with respect to 1985 and subsequent crops of Burley tobacco.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 211 of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

BURLEY TOBACCO QUOTA ADJUSTMENT

Section 304(b) of Pub. L. 100–387 provided that: ''Notwithstanding any other provision of law, if a producer has produced burley tobacco in 1988 in an amount less than the producer's farm marketing quota for 1988 due to natural disaster, the Secretary may adjust the producer's burley tobacco farm marketing quota for the 1989 crop, as established under section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(e) [7 U.S.C. 1314e]), by adding the accumulated undermarketings of the basic quota for 1988 crop, including undermarketings of leased quota, to the producer's basic quota for the 1989 crop, except that such adjustment may not exceed 125 percent of the producer's basic quota.''

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Action of Secretary under section 1312 of this title for burley tobacco for marketing years 1971, 1972, and 1973, prior to Apr. 14, 1971, without any effect, see section 4 of Pub. L. 92–10, set out as a note under section 1312 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1378, 1445 of this title.

§ 1314f. Nonquota tobacco subject to quota

(a) Notwithstanding any other provision of law, effective with respect to the 1982 and subse-

quent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of quota tobacco produced in the area having the highest price support under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.].

(b) Subsection (a) of this section shall not apply to—

(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota area on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect;

(2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania;

(3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut and Massachusetts, and cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia and Florida;

(4) tobacco produced in a quota area that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco; and

(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 1312(c) of this title, 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 July 20, 1982.

(Feb. 16, 1938, ch. 30, title III, § 320, as added Sept. 3, 1974, Pub. L. 93–411, 88 Stat. 1089; amended Nov. 4, 1978, Pub. L. 95–592, § 17, 92 Stat. 2534; Dec. 22, 1981, Pub. L. 97–98, title XI, § 1108, 95 Stat. 1266; July 20, 1982, Pub. L. 97–218, title II, § 204, 96 Stat. 206.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1982—Subsec. (b)(5). Pub. L. 97–218 added par. (5).

1981—Pub. L. 97–98 designated existing provision as subsec. (a), provided that application of this section be to the 1982 and subsequent crops instead of crops beginning with the 1975 crop, substituted provision that any kind of tobacco grown in an area where marketing quotas are in effect be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area for provision that any tobacco produced in an area where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas be subject to the quota for the kind of tobacco traditionally produced in the area, and struck out provisions exempting nonquota tobacco from this section if the Secretary or designee finds that such nonquota tobacco is readily and distinguishably different from any kind of tobacco produced under quota and providing that no marketing quota penalty be assessed as a result of the marketing of 1975 crop Maryland tobacco (Type 32) which is determined to be Burley tobacco (Type 31), and added subsec. (b).

1978—Pub. L. 95–592 inserted provision relating to nonassessment of marketing quota penalties as a result of marketing of 1975 crop Maryland tobacco (Type 32) which was determined to be Burley tobacco (Type 31) under provisions of this section.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–218 effective July 20, 1982, but not to 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 that date, see section 207 of Pub. L. 97–218, set out as a note under section 1314b of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 1108 of Pub. L. 97–98 provided that the amendment made by that section is effective beginning with the 1982 crop of tobacco.

§ 1314g. Submission of purchase intentions by cigarette manufacturers

(a) Quantity of intended purchases; aggregation not to allow identification

(1) Not later than December 1 of any marketing year with respect to Flue-cured tobacco (or, in the case of the 1986 crop, 14 days after April 7, 1986) and January 15 of any marketing year with respect to Burley tobacco (or, in the case of the 1986 crop, 14 days after April 7, 1986, or January 15, 1986, whichever is later), each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured tobacco and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year (hereafter in this section referred to as the ''quantity of intended purchases'').

(2) The Secretary shall aggregate the quantities of intended purchases in a manner that will not allow the identification of the quantity of intended purchases of any manufacturer.

(b) Failure to submit; determination of quantity of intended purchases by Secretary

If any domestic manufacturer of cigarettes fails to submit to the Secretary a statement of the quantity of intended purchases of the manufacturer, as required by this section, the Secretary shall establish the quantity of intended purchases to be attributed to such manufacturer for purposes of this chapter, based on—

(1) the quantity of intended purchases submitted by such manufacturer under this section for the marketing year immediately preceding the marketing year for which the determination is being made; or

(2) if such manufacturer did not submit a statement of the quantity of intended pur-

chases of the manufacturer for the marketing year immediately preceding the marketing year for which the determination is being made, the most recent information available to the Secretary.

(c) Confidentiality of information; disclosure; publication of identity of violators; penalties

(1) All information relating to the quantity of intended purchases that is submitted by domestic manufacturers of cigarettes under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

(2) Such information may only be disclosed by such officers or employees in a suit or administrative hearing—

(A)(i) brought at the direction, or on the request, of the Secretary; or

(ii) to which the Secretary or any officer of the United States is a party; and

(B) involving enforcement of this chapter.

(3) Nothing in this section shall be considered to prohibit the publication, by direction of the Secretary, of the name of any person violating this chapter, together with a statement of the particular provisions of the chapter violated by such person.

(4) Any officer or employee of the Department of Agriculture who violates this subsection, on conviction, shall be—

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or to both; and

(B) removed from office.

(d) Exemption from public disclosure

Notwithstanding any other provision of law, a statement of the quantity of intended purchases that is submitted under this section shall be exempt from disclosure under section 552 of title 5.

(Feb. 16, 1938, ch. 30, title III, § 320A, as added Apr. 7, 1986, Pub. L. 99–272, title I, § 1103(d), 100 Stat. 88.)

EFFECTIVE DATE

Section 1103(d) of Pub. L. 99–272 provided that this section is effective for 1986 and each subsequent crop of tobacco.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1314h, 1314i, 1445–3 of this title.

§ 1314h. Purchase requirements; penalty

(a) Statement of quantity purchased during marketing year

(1) At the conclusion of each marketing year, on or before a date prescribed by the Secretary, each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year.

(2) The statement shall include, but not be limited to, the quantity of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco.

(b) Failure to purchase at least 90 percent of quantity of intended purchases; reduction in quantity of intended purchases

(1) Except as otherwise provided in this subsection, any domestic manufacturer of cigarettes that fails, as determined by the Secretary after notice and opportunity for a hearing, to purchase during a marketing year on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of this section a quantity of Flue-cured quota tobacco and a quantity of Burley quota tobacco equal to at least 90 percent of the quantity of the intended purchases of Flue-cured tobacco and Burley tobacco, respectively, submitted by such manufacturer or established by the Secretary for such manufacturer for that marketing year under section 1314g of this title (as that quantity may be reduced under paragraph (2)) shall be subject to a penalty as prescribed in subsection (c) of this section.

(2)(A) If the total quantity of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the quantity of intended purchases of each domestic manufacturer of cigarettes, for purposes of paragraph (1), shall be reduced by a percentage equal to the percentage by which the total quantity marketed at auction in the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for the marketing year.

(B) For purposes of this section, the term ''marketed'' shall include disposition of tobacco by consigning the tobacco to a producer association described in subsection (a)(2) of this section for a price support advance.

(c) Penalty for failure to purchase specified amount

The amount of any penalty to be imposed on a manufacturer under this section shall be determined by multiplying—

(1) twice the per pound assessment (as determined under section 1445–1 or 1445–2 of this title) for the kind of tobacco involved; by

(2) the quantity by which—

(A) the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in sub-

section (a)(2) of this section of Flue-cured and Burley quota tobacco, respectively, for the marketing year; are less than

(B) 90 percent of the quantity of intended purchases of such kinds of tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year under section 1314g of this title (as that quantity may be reduced under subsection (b)(2) of this section).

(d) Transmission of penalty by Secretary; deposit in No Net Cost Fund or Account

(1) An amount equivalent to the penalty collected by the Secretary under this section shall be transmitted by the Secretary to the appropriate producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco, as the case may be.

(2) Each association to which amounts are transmitted by the Secretary under this section shall deposit such amounts in the No Net Cost Fund or Account of such association in accordance with section 1445–1 or 1445–2 of this title.

(e) Confidentiality of information submitted; disclosure; publication of identity of violators; exemption from public disclosure; penalties

The limitations on disclosure set forth in subsections (c) and (d) of section 1314g of this title shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to the quantity of purchases of Flue-cured and Burley quota tobacco during a marketing year. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 1314g(c)(4) of this title.

(f) "Quota tobacco" defined

As used in this section, 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.

(Feb. 16, 1938, ch. 30, title III, § 320B, as added Apr. 7, 1986, Pub. L. 99–272, title I, § 1106(a), 100 Stat. 90.)

EFFECTIVE DATE

Section 1106(a) of Pub. L. 99–272 provided that this section is effective for 1986 and subsequent crops of tobacco.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1314i, 1372 of this title.

§ 1314i. Domestic marketing assessment

(a) Certification

A domestic manufacturer of cigarettes shall certify to the Secretary, for each calendar year, the percentage of the quantity of tobacco used by the manufacturer to produce cigarettes during the year that is produced in the United States.

(b) Penalties

(1) In general

Subject to subsection (f) of this section, a domestic manufacturer of cigarettes that has failed, as determined by the Secretary after notice and opportunity for a hearing, to use in the manufacture of cigarettes during a calendar year a quantity of tobacco grown in the United States that is at least 75 percent of the total quantity of tobacco used by the manufacturer, or to comply with subsection (a) of this section, shall be subject to the requirements of subsections (c), (d), and (e) of this section.

(2) Failure to certify

For purposes of this section, if a manufacturer fails to comply with subsection (a) of this section, the manufacturer shall be presumed to have used only imported tobacco in the manufacture of cigarettes produced by the manufacturer.

(3) Reports and records

(A) In general

The Secretary shall require manufacturers of domestic cigarettes to make such reports and maintain such records as are necessary to carry out this section. If the reports and records are insufficient, the Secretary may request other persons to provide supplemental information.

(B) Examinations

For the purpose of ascertaining the correctness of any report or record required under this section, or of obtaining further information required under this section, the Secretary and the Office of Inspector General may examine such records, books, and other materials as the Secretary has reason to believe may be relevant. In the case of a manufacturer of domestic cigarettes, the Secretary may charge a fee to the manufacturer to cover the reasonable costs of any such examination.

(C) Penalties

Any person who fails to provide information required under this paragraph or who provides false information under this paragraph shall be subject to section 1001 of title 18.

(D) Confidentiality

Section 1314g(c) of this title shall apply to information submitted by manufacturers of domestic cigarettes and other persons under this paragraph.

(E) Disclosure

Notwithstanding any other provision of law, information on the percentage or quantity of domestic or imported tobacco in cigarettes or on the volume of cigarette production that is submitted under this section shall be exempt from disclosure under section 552 of title 5.

(c) Domestic marketing assessment

(1) In general

A domestic manufacturer of cigarettes described in subsection (b) of this section shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in accordance with this subsection.

(2) Amount

The amount of an assessment imposed on a manufacturer under this subsection shall be determined by multiplying—

(A) the quantity by which the quantity of imported tobacco used by the manufacturer to produce cigarettes during a preceding calendar year exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year; by

(B) the difference between—

(i) ½ of the sum of—

(I) the average price per pound received by domestic producers for Burley tobacco during the preceding calendar year; and

(II) the average price per pound received by domestic producers for Flue-cured tobacco during the preceding calendar year; and

(ii) the average price per pound of unmanufactured imported tobacco during the preceding calendar year, as determined by the Secretary.

(3) Collection

An assessment imposed under this subsection shall be—

(A) collected by the Secretary and transmitted to the Commodity Credit Corporation; and

(B) enforced in the same manner as provided in section 1314h of this title.

(d) Purchase of Burley tobacco

(1) In general

A domestic manufacturer of cigarettes described in subsection (b) of this section shall purchase from the inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title, at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

(2) Quantity

Subject to paragraph (3), the quantity of Burley tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

(3) Limitation

If the total quantity of Burley tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing associations for Burley tobacco to less than the reserve stock level for Burley tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Burley tobacco.

(4) Noncompliance

If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing associations the quantity of Burley tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(5) Purchase requirements

Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 1314h of this title.

(e) Purchase of Flue-cured tobacco

(1) In general

A domestic manufacturer of cigarettes described in subsection (b) of this section shall purchase from the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title, at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

(2) Quantity

Subject to paragraph (3), the quantity of Flue-cured tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

(3) Limitation

If the total quantity of Flue-cured tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco to less than the reserve stock level for Flue-cured tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Flue-cured tobacco.

(4) Noncompliance

If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing association the quantity of Flue-cured tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Flue-

cured tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(5) Purchase requirements

Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 1314h of this title.

(f) Crop losses due to disasters

(1) In general

If the Secretary, in consultation with producer-owned cooperative marketing associations, determines that because of drought, insect or disease infestation, or other natural disaster, or other condition beyond the control of producers, the total quantity of a crop of domestic Burley tobacco or Flue-cured tobacco that is harvested and suitable for marketing is substantially less than the expected yield for the crop, and that pool inventories for the kind of tobacco involved have been depleted, effective for the calendar year following the year in which the crop loss occurs, the Secretary may reduce the minimum percentage of domestic tobacco specified in subsection (a) of this section to a percentage below 75 percent, as determined by the Secretary, that reflects the reduced availability of domestic supplies of the kind of tobacco involved.

(2) Determination of expected yield

For purposes of paragraph (1), the Secretary shall determine the expected yield for a crop of Burley tobacco or Flue-cured tobacco by taking into consideration—

(A) the total acreage planted to the crop (including acreage that the producers were prevented from planting because of a condition referred to in paragraph (1)); and

(B) normal farm yields established for the crop.

(3) Deadline for determinations

The Secretary shall make determinations under paragraph (1) about crop losses and announce the reduced percentage of the domestic tobacco pool not later than November 30 of the year in which the applicable crop of Burley tobacco or Flue-cured tobacco is harvested.

(g) Effective date

This section shall be effective only for calendar year 1994.

(Feb. 16, 1938, ch. 30, title III, § 320C, as added Aug. 10, 1993, Pub. L. 103–66, title I, § 1106(a), 107 Stat. 318; amended Dec. 8, 1994, Pub. L. 103–465, title IV, § 422(a), 108 Stat. 4964.)

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–465 added subsec. (g).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 422(e) of Pub. L. 103–465 provided that: ''This section [amending this section, section 1445 of this title, and section 1313 of Title 19, Customs Duties, and enacting provisions set out as a note under section 1445 of this title] and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421 [set out as a note under section 2135 of Title 19], establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco.''

[Proc. No. 6821, Sept. 12, 1995, 60 F.R. 47663, effective Sept. 13, 1995, established tariff-rate quotas on certain tobacco.]

§ 1315. Burley tobacco acreage allotments

The farm acreage allotment for burley tobacco for any year shall not be less than the smallest of (1) the allotment established for the farm for the immediately preceding year, (2) five-tenths of an acre, or (3) 10 per centum of the cropland: *Provided, however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre in any one year. The additional acreage required under this section shall be in addition to the State acreage allotments and the production on such acreage shall be in addition to the national marketing quota.

(July 12, 1952, ch. 709, 66 Stat. 597; Mar. 31, 1955, ch. 21, § 2, 69 Stat. 24.)

CODIFICATION

Section was not enacted as a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1955—Act Mar. 31, 1955, amended section generally by reducing minimum acreage allotments.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Mar. 31, 1955, provided that the amendment made by that act is effective for the 1956 and subsequent crops of burley tobacco.

ACREAGE ALLOTMENT BASIS OF QUOTA; AMENDMENT OF CLAUSE (1) AND PROVISO

Part of section 317(h) of act Feb. 16, 1938, ch. 30, title III, as added by Pub. L. 89–12, § 1, Apr. 16, 1965, 79 Stat. 72, and classified as part of section 1314c(h) of this title, provided that: ''Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

''(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of the Act of July 12, 1952, as amended (7 U.S.C. 1315) instead of under the preceding provisions of this subsection [section 1314c(h) of this title];

''(B) clause (1) of the Act of July 12, 1952 [this section], shall for such purpose read as follows: '(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis'; and

''(C) the proviso of that Act [this section] shall for such purpose read as follows: '*Provided, however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1316. Transfer of allotments subsequent to 1965

Notwithstanding the provisions of sections 1314b(c) and 1314c(b) of this title, relating to transfer of allotments for years subsequent to 1965, whenever acreage-poundage quotas are in effect for any kind of tobacco as provided in section 1314c of this title, the transfer shall be on

a pound for pound basis and the acreage allotment for the transferee farm shall be increased by an amount determined by dividing the number of pounds transferred by the farm yield for the transferee farm, and the acreage allotment for the transferor farm shall be reduced by an amount determined by dividing the number of pounds transferred by the farm yield for the transferor farm.

(Pub. L. 89–321, title VII, § 703, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91–284, § 6, June 19, 1970, 84 Stat. 314; Pub. L. 97–218, title II, § 205(b), July 20, 1982, 96 Stat. 206.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter. The first sentence of section 703 of Pub. L. 89–321 amended section 1314b(a) of this title.

AMENDMENTS

1982—Pub. L. 97–218 substituted ''transfer'' for ''lease and transfer'', ''transferee'' for ''lessee'', ''transferor'' for ''lessor'', and ''transferred'' for ''leased'', wherever appearing.

1970—Pub. L. 91–284 struck out ''except in the case of burley tobacco, and other kinds of tobacco not subject to section 1314b of this title,'' after ''any kind of tobacco as provided in section 1314c of this title,''.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–218 effective July 20, 1982, but not to 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 that date, see section 207 of Pub. L. 97–218, set out as a note under section 1314b of this title.

SUBPART II—ACREAGE ALLOTMENTS—CORN

AMENDMENTS

1954—Act Aug. 28, 1954, ch. 1041, title III, § 303, 68 Stat. 902, substituted ''Acreage Allotments—Corn'' for ''Marketing Quotas—Corn'' in subpart II heading.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation

Corn is a basic source of food for the Nation, and corn produced in the commercial corn-producing area moves almost wholly in interstate and foreign commerce in the form of corn, livestock, and livestock products.

Abnormally excessive and abnormally deficient supplies of corn acutely and directly affect, burden, and obstruct interstate and foreign commerce in corn, livestock, and livestock products. When abnormally excessive supplies exist, transportation facilities in interstate and foreign commerce are overtaxed, and the handling and processing facilities through which the flow of interstate and foreign commerce in corn, livestock, and livestock products is directed become acutely congested. Abnormally deficient supplies result in substantial decreases in livestock production and in an inadequate flow of livestock and livestock products in interstate and foreign commerce, with the consequence of unreasonably high prices to consumers.

Violent fluctuations from year to year in the available supply of corn disrupt the balance between the supply of livestock and livestock products moving in interstate and foreign commerce and the supply of corn available for feeding. When available supplies of corn are excessive, corn prices are low and farmers overexpand livestock production in order to find outlets for corn. Such expansion, together with the relative scarcity and high price of corn, forces farmers to market abnormally excessive supplies of livestock in interstate commerce at sacrifice prices, endangering the financial stability of producers, and overtaxing handling and processing facilities through which the flow of interstate and foreign commerce in livestock and livestock products is directed. Such excessive marketings deplete livestock on farms, and livestock marketed in interstate and foreign commerce consequently becomes abnormally low, with resultant high prices to consumers and danger to the financial stability of persons engaged in transporting, handling, and processing livestock in interstate and foreign commerce. These high prices in turn result in another overexpansion of livestock production.

Recurring violent fluctuations in the price of corn resulting from corresponding violent fluctuations in the supply of corn directly affect the movement of livestock in interstate commerce from the range cattle regions to the regions where livestock is fattened for market in interstate and foreign commerce, and also directly affect the movement in interstate commerce of corn marketed as corn which is transported from the regions where produced to the regions where livestock is fattened for market in interstate and foreign commerce.

Substantially all the corn moving in interstate commerce, substantially all the corn fed to livestock transported in interstate commerce for fattening, and substantially all the corn fed to livestock marketed in interstate and foreign commerce, is produced in the commercial corn-producing area. Substantially all the corn produced in the commercial corn-producing area, with the exception of a comparatively small amount used for farm consumption, is either sold or transported in interstate commerce, or is fed to livestock transported in interstate commerce for feeding, or is fed to livestock marketed in interstate and foreign commerce. Almost all the corn produced outside the commercial corn-producing area is either consumed, or is fed to livestock which is consumed, in the State in which such corn is produced.

The conditions affecting the production and marketing of corn and the livestock products of corn are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of disparities between the supplies of livestock moving in interstate and foreign commerce and the supply of corn available for feeding, and provide for orderly marketing of corn in interstate and foreign commerce and livestock and livestock products in interstate and foreign commerce.

The national public interest requires that the burdens on interstate and foreign commerce above described be removed by the exercise of Federal power. By reason of the administrative and physical impracticability of regulating the movement of livestock and livestock products in

interstate and foreign commerce and the inadequacy of any such regulation to remove such burdens, such power can be feasibly exercised only by providing for the withholding from market of excessive and burdensome supplies of corn in times of excessive production, and providing a reserve supply of corn available for market in times of deficient production, in order that a stable and continuous flow of livestock and livestock products in interstate and foreign commerce may at all times be assured and maintained.

(Feb. 16, 1938, ch. 30, title III, § 321, 52 Stat. 48.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

§ 1322. Repealed. Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902

Section, acts Feb. 16, 1938, ch. 30, title III, § 322, 52 Stat. 49; July 3, 1948, ch. 827, title II, § 203, 62 Stat. 1255; Oct. 31, 1949, ch. 792, title IV, § 409(e), 63 Stat. 1057, related to establishment, referendum, and suspension of farm marketing quotas.

§ 1322a. Repealed. July 3, 1948, ch. 827, title II, § 203(b), 62 Stat. 1256

Section, act July 26, 1939, ch. 378, 53 Stat. 1125, related to time for proclamation of referendum.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

§§ 1323 to 1325. Repealed. Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902

Section 1323, act Feb. 16, 1938, ch. 30, title III, § 323, 52 Stat. 50, related to amount of farm marketing quota with respect to corn.

Section 1324, act Feb. 16, 1938, ch. 30, title III, § 324, 52 Stat. 50, related to storage amounts.

Section 1325, act Feb. 16, 1938, ch. 30, title III, § 325, 52 Stat. 51, related to penalties for marketing corn in excess of quota.

§ 1326. Adjustment of farm marketing quotas

(a) Whenever in any county or other area the Secretary finds that the actual production of corn plus the amount of corn stored under seal in such county or other area is less than the normal production of the marketing percentage of the farm acreage allotments in such county or other area, the Secretary shall terminate farm marketing quotas for corn in such county or other area.

(b) Whenever, upon any farm, the actual production of the acreage of corn is less than the normal production of the marketing percentage of the farm acreage allotment, there may be marketed, without penalty, from such farm an amount of corn from the corn stored under seal pursuant to section 1324 of this title which, together with the actual production of the then current crop, will equal the normal production of the marketing percentage of the farm acreage allotment.

(c) Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of corn produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of corn shall be terminated.

(Feb. 16, 1938, ch. 30, title III, § 326, 52 Stat. 51.)

REFERENCES IN TEXT

Section 1324 of this title, referred to in subsec. (b), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

REPEALS

Act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, repealed this section insofar as it is applicable to corn. Section has been made applicable to wheat by sections 1330(6) and 1340(6) of this title.

CROSS REFERENCES

Wheat marketing quotas, effect of increased acreage allotments, see section 1334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1340 of this title.

§§ 1327 to 1329. Omitted

CODIFICATION

Sections provided for establishment of a commercial corn-producing area and corn acreage allotments, which were discontinued. See sections 1329a, 1444a, and 1444b of this title.

Section 1327, acts Feb. 16, 1938, ch. 30, title III, § 327, 52 Stat. 51; Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 903, provided for proclamation of commercial corn-producing area not later than February 1 of each year.

Section 1328, acts Feb. 16, 1938, ch. 30, title III, § 328, 52 Stat. 52; Apr. 7, 1938, ch. 107, § 6, 52 Stat. 202; July 3, 1948, ch. 827, title II, § 207(a), 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV, § 409(f), 63 Stat. 1057; Aug. 28, 1954, ch. 1041, title III, § 305, 68 Stat. 903, provided for establishment of acreage allotment of corn for each calendar year and proclamation of such acreage allotment not later than February 1 of each year.

Section 1329, acts Feb. 16, 1938, ch. 30, title III, § 329, 52 Stat. 52; Aug. 28, 1954, ch. 1041, title III, § 306, 68 Stat. 903, provided for apportionment of acreage allotment for corn.

§ 1329a. Discontinuance of acreage allotments on corn

Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn.

(Feb. 16, 1938, ch. 30, title III, § 330, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(1), as added Aug. 28, 1958, Pub. L. 85–835, title II, § 201, 72 Stat. 994.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title

(254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1330. Omitted

CODIFICATION

Section, acts May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905, initially contained supplemental provisions relating to wheat and corn marketing quotas; marketing penalty for cotton and rice; crop loans on cotton, corn, wheat, rice, tobacco, and peanuts, but was amended generally in 1954 to make it inapplicable to corn. See section 1340 of this title.

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SUBPART III—MARKETING QUOTAS—WHEAT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation

Wheat is a basic source of food for the Nation, is produced throughout the United States by more than a million farmers, is sold on the country-wide market and, as wheat or flour, flows almost entirely through instrumentalities of interstate and foreign commerce from producers to consumers.

Abnormally excessive and abnormally deficient supplies of wheat on the country-wide market acutely and directly affect, burden, and obstruct interstate and foreign commerce. Abnormally excessive supplies overtax the facilities of interstate and foreign transportation, congest terminal markets and milling centers in the flow of wheat from producers to consumers, depress the price of wheat in interstate and foreign commerce, and otherwise disrupt the orderly marketing of such commodity in such commerce. Abnormally deficient supplies result in an inadequate flow of wheat and its products in interstate and foreign commerce with consequent injurious effects to the instrumentalities of such commerce and with excessive increases in the prices of wheat and its products in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in wheat and its products be protected from such burdensome surpluses and distressing shortages, and that a supply of wheat be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of such burdensome surpluses. Such surpluses result in disastrously low prices of wheat and other grains to wheat producers, destroy the purchasing power of grain producers for industrial products, and reduce the value of the agricultural assets supporting the national credit structure. Such shortages of wheat result in unreasonably high prices of flour and bread to consumers and loss of market outlets by wheat producers.

The conditions affecting the production and marketing of wheat are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of such surpluses and shortages and the burdens on interstate and foreign commerce resulting therefrom, maintain normal supplies of wheat, or provide for the orderly marketing thereof in interstate and foreign commerce.

Wheat which is planted and not disposed of prior to the date prescribed by the Secretary for the disposal of excess acres of wheat is an addition to the total supply of wheat and has a direct effect on the price of wheat in interstate and foreign commerce and may also affect the supply and price of livestock and livestock products. In the circumstances, wheat not disposed of prior to such date must be considered in the same manner as mechanically harvested wheat in order to achieve the policy of the chapter.

The diversion of substantial acreages from wheat to the production of commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage would burden, obstruct, and adversely affect interstate and foreign commerce in such commodities, and would adversely affect the prices of such commodities in interstate and foreign commerce. Small changes in the supply of a commodity could create a sufficient surplus to affect seriously the price of such commodity in interstate and foreign commerce. Large changes in the supply of such commodity could have a more acute effect on the price of the commodity in interstate and foreign commerce and, also, could overtax the handling, processing, and transportation facilities through which the flow of interstate and foreign commerce in such commodity is directed. Such adverse effects caused by overproduction in one year could further result in a deficient supply of the commodity in the succeeding year, causing excessive increases in the price of the commodity in interstate and foreign commerce in such year. It is, therefore, necessary to prevent acreage diverted from the production of wheat to be used to produce commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage.

The provisions of this subpart affording a cooperative plan to wheat producers are necessary in order to minimize recurring surpluses and shortages of wheat in interstate and foreign commerce, to provide for the maintenance of adequate reserve supplies thereof, to provide for an adequate and orderly flow of wheat and its products in interstate and foreign commerce at prices which are fair and reasonable to farmers and consumers, and to prevent acreage diverted from the production of wheat from adversely affecting other commodities in interstate and foreign commerce.

(Feb. 16, 1938, ch. 30, title III, § 331, 52 Stat. 52; Sept. 27, 1962, Pub. L. 87–703, title III, § 310, 76 Stat. 618.)

AMENDMENTS

1962—Pub. L. 87–703 provided additional findings respecting the addition of wheat to total supply of wheat and effect of such addition on price of wheat and supply and price of livestock and livestock products, the need

to prevent the use of acreage diverted from wheat production to produce other commodities in surplus supply and the consequences of a small or large change in the supply of a commodity and the necessity of a cooperative plan to wheat producers to provide for flow of wheat at fair and reasonable prices to farmers and consumers and to prevent diverted acreage from production of wheat from adversely affecting other commodities in interstate and foreign commerce.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Pub. L. 101–624, title III, § 303, Nov. 28, 1990, 104 Stat. 3400, provided that: ''Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1991 through 1995 crops of wheat.''

Pub. L. 99–198, title III, § 310(b), Dec. 23, 1985, 99 Stat. 1395, provided that: ''Sections 331, 339, 379b, and 379c of such Act [the Agricultural Adjustment Act of 1938] (7 U.S.C. 1331, 1339, 1379b, and 1379c) shall not be applicable to the 1986 through 1990 crops of wheat.''

Pub. L. 97–98, title III, § 303, Dec. 22, 1981, 95 Stat. 1227, provided that: ''Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 [this section and sections 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1379b, and 1379c of this title] shall not be applicable to the 1982 through 1985 crops of wheat.''

Pub. L. 95–113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, provided that: ''Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938, as amended [this section and sections 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1379b, and 1379c of this title], shall not be applicable to the 1978 through 1981 crops of wheat.''

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

§ 1332. National marketing quota

(a) Proclamation; duration of program

Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the chapter.

(b) Amount; minimum

If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof, and (iv) will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the chapter: *Provided*, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: *And provided further*, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.

(c) National emergencies or material increase in demand; investigation; increase or termination

If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If, on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this subpart by a uniform percentage.

(d) Farm marketing quotas for wheat crops planted in calendar years 1966–1970

Notwithstanding any other provision of this chapter, the Secretary shall proclaim a national marketing quota for the crops of wheat planted for harvest in the calendar years 1966 through 1970, and farm marketing quotas shall not be in effect for such crops of wheat.

(Feb. 16, 1938, ch. 30, title III, § 332, 52 Stat. 53; Aug. 28, 1954, ch. 1041, title III, § 307, 68 Stat. 903;

Sept. 27, 1962, Pub. L. 87–703, title III, § 311, 76 Stat. 619; Nov. 3, 1965, Pub. L. 89–321, title V, § 501(1), 79 Stat. 1199; Oct. 11, 1968, Pub. L. 90–559, § 1(1), 82 Stat. 996; Dec. 23, 1985, Pub. L. 99–198, title III, § 302, 99 Stat. 1378.)

AMENDMENTS

1985—Pub. L. 99–198 temporarily substituted ''Proclamation of marketing quotas'' for ''National marketing quota'' in section catchline. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (a). Pub. L. 99–198 amended subsec. (a) generally, temporarily substituting provisions defining the terms ''base period'' and ''marketing quota period'' for provisions which authorized the Secretary to proclaim a national marketing quota for wheat for either a two- or three-year period. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (b). Pub. L. 99–198 amended subsec. (b) generally, temporarily substituting provisions authorizing the proclamation of a national marketing quota for each marketing year, not later than June 15, 1986, in an amount which the Secretary determines is required to meet anticipated needs during such marketing year, and the conducting of a marketing quota referendum not later than Aug. 1, 1986 for provisions which had authorized the proclamation of a national marketing quota upon a determination made between Jan. 1 and Apr. 15 of the calendar year preceding the year in which the marketing year began, which determination had to provide a minimum of one billion bushels for any marketing year, and investigation of stocks to adjust for imports and excessive or insufficient amounts generally. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (c). Pub. L. 99–198 amended subsec. (c) generally, temporarily substituting provisions requiring the Secretary to adjust or terminate the national marketing quota in the event of a national emergency or material change in the demand for wheat for provisions which had required the Secretary to cause an immediate investigation to be made to determine whether termination or increase in the quota was necessary in order to meet such emergency or increase in demand, and struck out provisions requiring the Secretary to proclaim such findings and the amount of any increase, with any such increase to be based on a uniform percentage. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (d). Pub. L. 99–198 amended section generally, temporarily striking out subsec. (d) which provided for farm marketing quotas for wheat crops planted in calendar years 1969–1970. See Effective and Termination Dates of 1985 Amendment note below.

1968—Subsec. (d). Pub. L. 90–559 provided for a one year extension through 1970.

1965—Subsec. (b). Pub. L. 89–321 changed item (iv) from the average amount of wheat which was used for livestock feed during 1959–60 to the amount which will be utilized during the marketing year for which the quota is being determined for livestock feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title.

Subsec. (d). Pub. L. 89–321 added subsec. (d).

1962—Pub. L. 87–703 substituted provisions for proclamation of a national marketing quota upon a determination made prior to April 15 in any calendar year, the duration of such a program, the amount of, including the minimum, quota, and investigation of stocks to increase or terminate the quota during national emergencies or material increase in demand for provision for proclamation, not later than May 15 of each calendar year, of a national marketing quota for the crop produced in the next calendar year.

1954—Act Aug. 28, 1954, struck out proclamations relating to supplies, and changed proclamation date from July 15 to May 15.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 302 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 501 of Pub. L. 89–321 provided that the amendments made by that section [amending this section and sections 1333, 1334, 1335, and 1339 of this title] are ''effective beginning with the crop planted for harvest in the calendar year 1966''.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Pub. L. 101–270, Apr. 10, 1990, 104 Stat. 134, provided: ''That section 332 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332) shall not be applicable to the 1991 crop of wheat.''

Section 310(a) of Pub. L. 99–198 provided that: ''Sections 332, 333, 334, 335, 336, and 338 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332–1336 and 1338) shall not be applicable to the 1986 crop of wheat.''

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

1965 CROP NATIONAL MARKETING QUOTA AND CROP ACREAGE ALLOTMENT

Section 201 of Pub. L. 88–297, title II, Apr. 11, 1964, 78 Stat. 178, directed Secretary to not proclaim a national marketing quota for 1965 crop of wheat and that farm marketing quotas shall not be in effect for such crop of wheat, and required Secretary to proclaim a national acreage allotment for 1965 crop of wheat which shall be the number of acres which he determined would make available an adequate supply of wheat, but not less than forty-nine million five hundred thousand acres.

DEFERRAL OF PROCLAMATION FOR 1963 CROP

Pub. L. 87–485, June 15, 1962, 76 Stat. 103, authorized Secretary of Agriculture to defer until July 15, 1962, any proclamation under this section with respect to a national acreage allotment for 1963 crop of wheat and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

Pub. L. 87–450, May 15, 1962, 76 Stat. 69, authorized Secretary of Agriculture to defer until June 15, 1962, any proclamation under this section with respect to a national acreage allotment for 1963 crop of wheat and any proclamation under section 1335 of this title for such crop of wheat.

DEFERRAL OF PROCLAMATION FOR 1960 CROP

Pub. L. 86–27, May 15, 1959, 73 Stat. 25, authorized Secretary of Agriculture to defer until June 1, 1959, any proclamation under this section with respect to a na-

tional acreage allotment for 1960 crop of wheat and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

§ 1333. National acreage allotment

The Secretary shall proclaim a national acreage allotment for each crop of wheat. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than that not harvested because of program incentives) of farm acreage allotments will produce an amount of wheat equal to the national marketing quota for wheat for the marketing year for such crop, or if a national marketing quota was not proclaimed, the quota which would have been determined if one had been proclaimed.

(Feb. 16, 1938, ch. 30, title III, § 333, 52 Stat. 53; June 20, 1938, ch. 518, 52 Stat. 775; July 26, 1939, ch. 377, 53 Stat. 1125; July 3, 1948, ch. 827, title II, § 207(b), 62 Stat. 1257; Sept. 27, 1962, Pub. L. 87–703, title III, § 312, 76 Stat. 620; Nov. 3, 1965, Pub. L. 89–321, title V, § 501(2), 79 Stat. 1199; Dec. 23, 1985, Pub. L. 99–198, title III, § 303, 99 Stat. 1379.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, temporarily substituting provisions relating to the establishment and determination of a marketing quota apportionment factor for each crop of wheat for which a national marketing quota is proclaimed under section 1332 of this title for provisions relating to the proclamation and determination of a national acreage allotment for each crop of wheat. See Effective and Termination Dates of 1985 Amendment note below.

1965—Pub. L. 89–321 substituted projected national yield for expected yield in the determination of the basis to be used in arriving at the national acreage allotment, inserted limiting parenthetical reference to acreage other than that harvested because of program incentives, and struck out references to expected production on the increases in acreage allotments for farms based upon small-farm base acreages pursuant to section 1335 of this title and to the expected production on the increased acreages resulting from the small-farm exemption pursuant to section 1335 of this title.

1962—Pub. L. 87–703 substituted provision for proclamation of a national acreage allotment at the time of proclamation of the national marketing quota in an amount that would be the number of acres which on the basis of expected yields would, together with the expected production on increases in acreage allotments for small farms and on increased acreages resulting from the small-farm exemption, make available a supply equal to the national marketing quota for provision for determination of the national acreage allotment as such acreage as on the basis of the national average yield would produce an amount, which, with estimated carryover and imports, would make available a supply equal to a normal year's domestic consumption and exports plus 30 per centum and prescribing a national acreage allotment for wheat for 1938 at sixty-two million five hundred thousand acres and for any year at not less than fifty-five million acres.

1948—Act July 3, 1948, required the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

1939—Act July 26, 1939, amended last sentence.

1938—Act June 20, 1938, inserted last sentence.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 303 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. 89–321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89–321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1972 through 1977 crops of wheat.

1965 CROP ACREAGE ALLOTMENT

Proclamation of a national acreage allotment for 1965 crop of wheat that will make available an adequate supply of wheat but shall not be less than forty-nine million five hundred thousand acres, see section 201 of Pub. L. 88–297, set out as a note under section 1332 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1334. Apportionment of national acreage allotment

(a) Apportionment among States; special acreage reserve

The national allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 1335 of this title, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall

be used (1) to make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal grain crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 per centum than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 per centum of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 per centum than such average ratio on the remaining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the affected area to make such allotments comparable with those on similar farms in adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allotment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of one million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms (that is, farms on which wheat has been seeded or regarded as seeded to one or more of the three crops immediately preceding the crop for which the allotment is established) on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for the production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963 crop year.

(b) Apportionment among counties

The State acreage allotment for wheat, less a reserve of not to exceed 3 per centum thereof for apportionment as provided in subsection (c) of this section, shall be apportioned by the Secretary among the counties in the State, on the basis of the preceding year's wheat allotment in each such county, including for 1967 the increased acreage in the county allotted for 1966 pursuant to section 1335 of this title, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors.

(c) Apportionment among farms; overplanted allotments; reductions; notice

(1) The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop-rotation practices, type of soil, and topography. Not more than 3 per centum of the State allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. For the purpose of establishing farm acreage allotments—(i) the past acreage of wheat on any farm for 1958 or 1965 shall be the base acreage determined for the farm under the regulations issued by the Secretary for determining 1958 or 1965 farm wheat acreage allotments; (ii) if subsequent to the determination of such base acreage the 1958 or 1965 wheat acreage allotment for the farm is increased through administrative, review, or court proceedings, the 1958 or 1965 farm base acreage shall be increased in the same proportion; and (iii) the past acreage of wheat for 1959 and any subsequent year except 1965 shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case wheat acreage on the farm which is not in excess of wheat acreage allotment, the acreage diverted under such wheat allotment programs: *Provided*, That for 1959 and subsequent years in the case of any farm on which the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, for the purpose of establishing farm wheat acreage allotments subsequent to such depletion the past acreage of wheat for the farm for the year in which the excess was produced shall be reduced to the farm wheat acreage allotment for such year.

(2) Notwithstanding any other provision of law, each old or new farm acreage allotment for the 1962 crop of wheat as determined on the basis of a minimum national acreage allotment of fifty-five million acres shall be reduced by 10 per centum. In the event notices of farm acreage allotments for the 1962 crop of wheat have been mailed to farm operators prior to the effective date of this subparagraph (2), new notices showing the required reduction shall be mailed to farm operators as soon as practicable.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the past acreage of wheat for 1967 and any subsequent year shall be the acreage of wheat planted, plus the acreage regarded as planted, for harvest as grain on the farm which is not in excess of the farm acreage allotment.

(4) Notwithstanding any other provision of this subsection (c), the farm acreage allotment for the 1967 and any subsequent crop of wheat shall be established for each old farm by apportioning the county wheat acreage allotment among farms in the county on which wheat has been planted, or is considered to have been planted, for harvest as grain in any one of the three years immediately preceding the year for which allotments are determined on the basis of past acreage of wheat and the farm acreage allotment for the year immediately preceding the year for which the allotment is being established, adjusted as hereinafter provided. For purposes of this paragraph, the acreage allotment for the immediately preceding year may be adjusted to reflect established crop-rotation practices, may be adjusted downward to reflect a reduction in the tillable acreage on the farm, and may be adjusted upward to reflect such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment: *Provided*, That (i) for the purposes of computing the allotment for any year, the acreage allotment for the farm for the immediately preceding year shall be decreased by 7 per centum if for the year immediately preceding the year for which such reduction is made neither a voluntary diversion program nor a voluntary certificate program was in effect and there was noncompliance with the farm acreage allotment for such year; (ii) for purposes of clause (i), any farm on which the entire amount of farm marketing excess is delivered to the Secretary, stored, or adjusted to zero in accordance with applicable regulations to avoid or postpone payment of the penalty when farm marketing quotas are in effect, shall be considered in compliance with the allotment, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, the allotment for such farm next computed after determination of such depletion shall be reduced by reducing the allotment for the immediately preceding year by 7 per centum; and (iii) for purposes of clause (i) if the Secretary determines that the reduction in the allotment does not provide fair and equitable treatment to producers on farms following special crop rotation practices, he may modify such reduction in the allotment as he determines to be necessary to provide fair and equitable treatment to such producers.

(d) Repealed. Pub. L. 89–321, title V, § 501(6), Nov. 3, 1965, 79 Stat. 1201

(e) Increase in acreage allotments and marketing quotas for class II durum wheat

If, with respect to the 1962 and 1963 crops of wheat, the Secretary determines that the acreage allotments of farms producing durum wheat are inadequate to provide for the production of a sufficient quantity of durum wheat to satisfy the demands therefor (but not including export demand involving a subsidy by, or a loss to, the Federal Government), he shall increase the farm marketing quotas and acreage allotments for such crop of wheat for farms located in counties in the States of North Dakota, Minnesota, Montana, South Dakota, and California, designated by the Secretary as counties which (1) are capable of producing durum wheat (class II), and (2) have produced such wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested. The Secretary shall determine the percentage factor by which the average acreage of durum wheat (class II) produced during the last two-year period for which statistics are available (excluding any increases in durum wheat acreage as a result of increases in wheat acreage allotments authorized by this subsection) must be increased to satisfy such demand. The wheat acreage allotment for any farm established for such crop without regard to this subsection, after reduction in the case of the 1962 crop as required by subsection (c)(2) of this section (hereinafter referred to as the ''original allotment''), shall be increased by an acreage computed by multiplying the average acreage of durum wheat (class II) on the farm during such two-year period (excluding any increase in the acreage of durum wheat as a result of an increase in the wheat acreage allotment for the farm authorized by this subsection) by such percentage factor: *Provided*, That such increased allotment shall not exceed the cropland on the farm well suited to wheat. The increase in the wheat acreage allotment for any farm shall be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during such two-year period plus the number of acres by which the allotment is increased. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. As used in this subsection the term ''durum wheat'' means durum wheat (class II) other than the varieties known as ''Golden Ball'' and ''Peliss''. Any farm receiving an increased allotment under this subsection shall not be required as a condition of eligibility for price support, or permitted, to participate in the special 1962 wheat program formulated under section 124 of the Agricultural Act of 1961, or section 307 of the Food

and Agriculture Act of 1962. The Secretary shall give growers and millers of durum wheat and manufacturers of semolina products an opportunity to present their views and recommendations, prior to making any determination hereunder.

(f) Voluntary surrender of acreage allotment

Any part of any 1955, 1956, or 1957 farm wheat acreage allotment on which wheat will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of wheat tillable acres, crop rotation practices, type of soil, and topography. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (c) of this section. Any allotment transferred under this provision shall be regarded for the purposes of subsection (c) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having wheat planted thereon during the three-year base period: *Provided*, That notwithstanding any other provisions of law, any part of any 1955, 1956, or 1957 farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage surrendered, reapportioned under this subsection, and planted shall be credited to the State and county in determining future acreage allotments.

(g) Plantings in excess of allotments or where no allotment is established

Notwithstanding any other provision of law, no acreage in the commercial wheat-producing area seeded to wheat for harvest as grain in 1958 or thereafter except 1965 in excess of acreage allotments shall be considered in establishing future State and county acreage allotments. The planting on a farm in the commercial wheat-producing area of wheat of the 1958 or any subsequent crop for which no farm wheat acreage allotment was established shall not make the farm eligible for an allotment as an old farm pursuant to the first sentence of subsection (c) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment as a new farm under the second sentence of such subsection.

(h) Omitted

(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat

If, with respect to any crop of wheat, the Secretary finds that the acreage allotments of farms producing any type of wheat are inadequate to provide for the production of a sufficient quantity of such type of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such type of wheat, and (2) has produced such type of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such type of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an increased allotment under this subsection and the producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support.

(j) Increased durum wheat acreage allotments to Tulelake area, California, for 1970 and subsequent years; factors determinative; effect of increased allotments on marketing allocations and diversion payments

Notwithstanding any other provision of this chapter, the Secretary shall increase the acreage allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tulelake division of the Klamath project of California located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, and hereinafter referred to as the area. The increase for the area for each such crop shall be determined by adding, to the extent applications are made therefor, to the total allotments established for privately owned farms in the area for the particular crop without regard to this subsection (hereinafter referred to as the original allotments) an acreage sufficient to make available for each such crop a total allotment of twelve thousand acres for the area. The additional allotments made available by this subsection shall be in addition to the National, State, and county allotments otherwise established under this section, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this subsection for the production of Durum[1] wheat. The Secretary shall apportion the additional allotment acreage made available

[1] So in original. Probably should not be capitalized.

under this subsection between Modoc and Siskiyou Counties on the basis of the relative needs for additional allotments for the portion of the area in each county. The Secretary shall allot such additional acreage to individual farms in the area for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm, if any. The increase in the wheat acreage allotment for any farm under this subsection (1) shall not be taken into account in computing the farm wheat marketing allocation under section 1379b of this title, and (2) shall be conditioned upon the production of Durum[1] wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 1339 of this title.

(k) Transfer of farm wheat acreage allotments in case of natural disasters

Notwithstanding any other provision of this chapter, if the Secretary determines that because of a natural disaster a portion of the farm wheat acreage allotments in a county cannot be timely planted or replanted, he may authorize the transfer of all or a part of the wheat acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of wheat and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be planted on the farm from which it was transferred for the purposes of acreage history credits under this chapter.

(Feb. 16, 1938, ch. 30, title III, § 334, 52 Stat. 53; Apr. 7, 1938, ch. 107, § 7, 52 Stat. 203; Feb. 6, 1942, ch. 44, § 2, 56 Stat. 52; July 14, 1953, ch. 194, § 1, 67 Stat. 151; Jan. 30, 1954, ch. 2, § 4, 68 Stat. 6; Aug. 28, 1954, ch. 1041, title III, § 308, 68 Stat. 903; Feb. 19, 1955, ch. 8, 69 Stat. 9; Mar. 16, 1956, ch. 86, 70 Stat. 50; May 28, 1956, ch. 327, title III, § 301, 70 Stat. 203; Aug. 7, 1956, ch. 1030, § 2, 70 Stat. 1117; Apr. 2, 1957, Pub. L. 85–13, 71 Stat. 10; Aug. 28, 1957, Pub. L. 85–203, § 2, 71 Stat. 477; Apr. 4, 1958, Pub. L. 85–366, 72 Stat. 78; May 1, 1958, Pub. L. 85–390, 72 Stat. 101; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 996; Feb. 20, 1960, Pub. L. 86–385, 74 Stat. 4; Apr. 9, 1960, Pub. L. 86–419, 74 Stat. 39; Aug. 8, 1961, Pub. L. 87–128, title I, §§ 121, 125, 75 Stat. 296, 300; Oct. 4, 1961, Pub. L. 87–357, 75 Stat. 778; Sept. 27, 1962, Pub. L. 87–703, title III, §§ 308(a), 313, 76 Stat. 618, 620; July 17, 1963, Pub. L. 88–64, 77 Stat. 79; Apr. 11, 1964, Pub. L. 88–297, title II, § 202(1)–(5), 78 Stat. 178, 179; Nov. 3, 1965, Pub. L. 89–321, title V, § 501(3)–(7), 79 Stat. 1199–1201; Jan. 2, 1968, Pub. L. 90–243, 81 Stat. 781; Mar. 31, 1970, Pub. L. 91–220, 84 Stat. 86; Dec. 23, 1985, Pub. L. 99–198, title III, § 304, 99 Stat. 1379.)

REFERENCES IN TEXT

Section 124 of the Agricultural Act of 1961, referred to in subsec. (e), is section 124 of Pub. L. 87–128 which was set out below.

Section 307 of the Food and Agriculture Act of 1962, referred to in subsec. (e), is section 307 of Pub. L. 87–703 which was set out below.

CODIFICATION

For omission of subsec. (h), see 1963 Amendment note below.

AMENDMENTS

1985—Pub. L. 99–198, in amending section generally, temporarily substituted ''Farm marketing quotas'' for ''Apportionment of national acreage allotment'' in section catchline. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (a). Pub. L. 99–198 amended subsec. (a) generally, temporarily substituting provisions requiring the Secretary to establish, for each crop of wheat for which a national marketing quota under section 1332 of this title has been proclaimed, a farm marketing quota for each farm on which wheat was planted, or considered planted, for harvest during the base period for provisions which required the Secretary to apportion the national acreage allotment for wheat, less a national acreage reserve and a special reserve which were provided for herein, among the States on the basis of each State's allotment for the preceding year, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (b). Pub. L. 99–198 amended subsec. (b) generally, temporarily substituting provisions establishing a formula for determination of the farm marketing quota for provisions which required the Secretary to apportion each State's acreage allotment for wheat among the counties of the State, less a reserve not to exceed 3 per centum thereof, on the basis of the preceding year's wheat allotment in each such county, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (c). Pub. L. 99–198 amended subsec. (c) generally, temporarily substituting provisions defining the circumstances under which wheat shall be considered to have been planted for harvest on the farm in any crop year for provisions relating to the apportionment among farms of each county's allotment under this section. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (d). Pub. L. 99–198, in amending section generally, temporarily added subsec. (d).

Subsecs. (e) to (k). Pub. L. 99–198, in amending section generally, temporarily struck out subsecs. (e) to (k) as follows:

Subsec. (e) related to increase in acreage allotments and marketing quotas for class II durum wheat.

Subsec. (f) related to voluntary surrender of acreage allotments for 1955, 1956, and 1957 crops of wheat.

Subsec. (g) related to plantings in excess of allotments or where no allotment was established, in the case of 1958 and subsequent crops of wheat.

Subsec. (h). There is no subsec. (h) for 1964 and subsequent crop years. Subsec. (h) was omitted pursuant to the 1963 amendment to this section by Pub. L. 88–64. See 1963 Amendments note set out under this section.

Subsec. (i) related to an increase in acreage allotments for any kind of wheat in short supply, and enumerated provisions of law inapplicable to such wheat.

Subsec. (j) related to increased durum wheat acreage allotments to the Tulelake area in California for 1970 and subsequent crops of wheat.

Subsec. (k) related to transfer of farm wheat acreage allotments in case of natural disasters.

See Effective and Termination Dates of 1985 Amendment note below.

1970—Subsec. (j). Pub. L. 91–220 removed the 1963 deadline on the Secretary's power to increase acreage

allotments, empowering him to do so for the 1970 and subsequent wheat crops, made the area increase for each crop determinable, among other factors, by the extent to which applications are received therefor, removed requirement that acreage planted to wheat pursuant to increased allotments be considered in establishing future state, county and farm acreage allotments except where such consideration may be desirable in providing increased allotments for production of Durum wheat in subsequent years, conditioned wheat acreage allotments upon the production of Durum wheat on the original and increased acreage allotment, prohibited consideration of the increased acreage allotment in computing the farm wheat marketing allocation under section 1379b of this title, made producers on farms receiving increased allotments ineligible for diversion payments under section 1339 of this title, and struck out provisions prohibiting such producers from receiving price support, provisions making land use rules of section 1339 of this title inapplicable to farms receiving additional allotments, and provisions relating to 1962 and 1963 wheat crops.

1968—Subsec. (a). Pub. L. 90–243 inserted provisions allowing the Secretary to make additional use, with specified limitations, of the 1 percent national wheat acreage allotment reserve in counties which have wheat as the principal grain crop, an average ratio of wheat acreage allotment to cropland on old wheat farms at least 20 percent below that in an adjoining county or alternative ratio, a low ratio caused by a shift prior to 1951 from wheat to an alternative crop or crops which have become unprofitable because of plant disease or sustained loss of markets, and no alternative income-producing crop.

1965—Subsec. (a). Pub. L. 89–321, § 501(3), substituted the preceding year's allotment for the acreage seeded for the production of wheat over the preceding ten-year period as the basis for determining the state's apportioned share of the national acreage allotment and made provision for a special acreage reserve to be apportioned only to counties where wheat is a major income-producing crop.

Subsec. (b). Pub. L. 89–321, § 501(4), substituted the county's allotment covering the preceding year for the acreage seeded for the production of wheat during the ten calendar years immediately preceding the calendar year in which the national acreage allotment is determined as the basis for determining the county's allotment.

Subsec. (c)(3), (4). Pub. L. 89–321, § 501(5), added pars. (3) and (4).

Subsec. (d). Pub. L. 89–321, § 501(6), repealed subsec. (d) dealing with farms on which the entire amount of the farm marketing excess has been delivered to the Secretary or stored in accordance with applicable provisions.

Subsec. (g). Pub. L. 89–321, § 501(7), struck out ''except as prescribed in the provisos to the first sentence of subsections (a) and (b) respectively of this section'' after ''county acreage allotments.''

1964—Subsec. (a). Pub. L. 88–297, § 202(1), provided (1) for the apportionment among the States of the national acreage allotment for wheat less the special acreage reserve; (2) that in establishing State acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965; and (3) beginning with the 1965 crop, a special acreage reserve and uses of such reserve and apportionment to counties of such reserve.

Subsec. (b). Pub. L. 88–297, § 202(2), provided that in establishing county acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965.

Subsec. (c)(1). Pub. L. 88–297, § 202(3), inserted in third sentence, cls. (i) and (ii), ''or 1965'' after ''1958'' wherever appearing and in third sentence, cl. (iii), ''except 1965'' after ''any subsequent year.''

Subsec. (g). Pub. L. 88–297, § 202(4), inserted in first sentence ''except 1965'' after ''in 1958 or thereafter''.

Subsec. (k). Pub. L. 88–297, § 202(5), added subsec. (k).

1963—Subsec. (h). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. Pub. L. 87–703, § 313(2), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (h). Pub. L. 88–64, § 1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j).

Subsec. (i). Pub. L. 88–64, § 1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). Pub. L. 87–703, § 313(4), added subsec. (i) (effective with the 1964 Wheat Crop). See 1962 Amendment note hereunder.

Subsec. (j). Pub. L. 88–64 redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j), inserted ''privately owned'' before ''farms'' in first and second sentences and increased from eight to twelve thousand acres the total acreage allotment for each crop.

1962—Subsec. (e). Pub. L. 87–703, §§ 308(a), 313(1), inserted provision respecting participation in the special wheat program formulated under section 307 of the Food and Agriculture Act of 1962 and substituted ''the 1962 and 1963 crops'' for ''any of the 1962, 1963, and 1964 crops'', respectively.

Subsec. (g). Pub. L. 87–703, § 313(2), redesignated former subsec. (h) as (g). Former subsec. (g), which related to weather conditions, underplanting, and subnormal production affecting acreage allotments, was repealed by such section 313(2). See section 1377 of this title.

Subsec. (h). Pub. L. 87–703, § 313 (2), (3), redesignated former subsec. (i) as (h) and inserted the sentence ''The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an additional allotment under this subsection.'' Former subsec. (h) redesignated (g). See Effective Date of 1962 Amendment note below making the changes effective with the 1964 Wheat Crop. Pub. L. 88–64, § 1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. See 1963 Amendment note above.

Subsec. (i). Pub. L. 87–703, § 313(4), added subsec. (i). Former subsec. (i) redesignated (h).

1961—Subsec. (c). Pub. L. 87–128, § 121, designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 87–128, § 125, authorized the Secretary to increase durum wheat acreage allotment during 1962, 1963, and 1964 crops of wheat when he determines that acreage allotments established for durum wheat farms will be inadequate to produce a sufficient quantity of durum wheat to meet demand therefor, not including export demand involving a subsidy by or loss to the Federal Government, by such percentage factor as is determined to be necessary to provide for the increase in quantity the increase not to exceed the cropland on the farm well suited to wheat and to be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during prescribed two-year period plus the number of acres by which the allotment is increased, provided that any farm receiving an increased durum wheat allotment shall not be required as a condition of price support, or permitted, to participate in the special 1962 wheat diversion program, and required the Secretary to become familiar with the views and recommendations of durum wheat grower and millers and manufacturers of semolina products prior to making any determinations. Former provisions of the subsection related to increase in allotment for durum wheat farms for 1957 crop of wheat, conditioned upon the production of durum wheat (class II) on the increased acreage and determined by adding to the allotment established without regard to subsec. (e) an acreage equal to the acreage by which the original allotment exceeded the 1957 acreage on the farm of classes of wheat other than durum wheat (class II), but not exceeding the smaller of the cropland on the farm well suited to wheat or the wheat acreage on the farm.

Subsec. (i). Pub. L. 87–357 substituted ''1958 through 1963'' for ''1958 through 1961'', and excluded from any general reduction in farm acreage allotments or farm acreage diversion program for the 1962 or 1963 wheat crop, the farms for which acreage allotments are increased under the provisions hereof, unless such reduction is specifically made applicable.

1960—Subsec. (d). Pub. L. 86–419 added subsec. (d).

Subsec. (i). Pub. L. 86–385 substituted ''1958 through 1961'' for ''1958 and 1959''.

1958—Subsec. (a). Pub. L. 85–366, § 1(1), inserted proviso that in establishing State acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage allotment for such year.

Subsec. (b). Pub. L. 85–366, § 1(2), inserted proviso that in establishing county acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage for such year.

Subsec. (c). Pub. L. 85–366, § 1(3), inserted sentence relating to establishment of farm acreage allotment for 1958 and past acreage for 1959 and subsequent years, with the proviso that for 1959 and subsequent years, any farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty, the past acreage for the year of delivery or storage shall be the base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, past acreage of wheat for year excess was produced shall be reduced to farm allotment for such year.

Subsec. (d). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85–835, repealed subsec. (d) which related to adjustment of allotment upon acquisition of part of farms by United States for defense.

Subsec. (h). Pub. L. 85–366, § 1(4), substituted ''future State and county acreage allotments except as prescribed in the provisos to the first sentence of subsections (a) and (b), respectively, of this section'' for ''future State, county, and farm acreage allotments''.

Subsec. (i). Pub. L. 85–390 added subsec. (i).

1957—Subsec. (e). Pub. L. 85–13 substituted ''1957'' for ''1956'' in two places, substituted ''1952 through 1956'' for ''1951 through 1955'', prohibited increase of acreage allotment under subsec. (e) by more than 60 acres, inserted clause providing for fixing ''farm acreage allotment'' as allotment established without regard to subsec. (e) and clause providing for counting each acre planted to durum wheat as one-half acre of wheat for application of section 1821(a)(1) of this title, and inserted provision that ''wheat acreage on the farm'' includes acreage in the wheat acreage report.

Subsec. (h). Pub. L. 85–203 added subsec. (h).

1956—Subsec. (e). Act Mar. 16, 1956, extended increased durum allotment to the 1956 crop and to certain counties in California, shortened the production history from 10 to 5 years and advanced it 1 year to include 1955, and made increased durum allotment dependent upon reduced planting of other wheat.

Subsec. (f). Act May 28, 1956, substituted ''1955, 1956, or 1957'' for ''1955'', in two places.

Subsec. (g). Act Aug. 7, 1956, added subsec. (g).

1955—Subsec. (e). Act Feb. 19, 1955, removed for 1955, requirements restricting increased acreage allotments to producers who devote a normal share of their original allotment to durum and who have produced durum in 1 or more of the preceding 3 years.

1954—Subsec. (e). Act Jan. 30, 1954, added subsec. (e).

Subsec. (f). Act Aug. 28, 1954, added subsec. (f).

1953—Subsec. (a). Act July 14, 1953, provided a reserve of up to 1 percent of the national acreage allotment for counties in which new areas have come into production.

Subsec. (b). Act July 14, 1953, provided for a 3 percent reserve of State acreage allotments for new farms.

Subsec. (c). Act July 14, 1953, recognized the use of past acreage as a factor in making farm allotments and placed the reserves for new farms on a State basis instead of a county basis.

Subsec. (d). Act July 14, 1953, made the provision relating to farms acquired for national-defense purposes apply to farms acquired in 1950 or thereafter instead of 1940 or thereafter.

1942—Subsec. (d). Act Feb. 6, 1942, added subsec. (d).

1938—Subsec. (b). Act Apr. 7, 1938, struck out ''net'' before ''acreage diverted'' from parenthetical provision.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 304 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89–321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 313 of Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 7, 1956, provided that the amendment made by that act is effective beginning with 1957 crop of wheat.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Feb. 19, 1955, provided that the amendment made by that act is effective beginning with 1955 crop of wheat.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 5 of act July 14, 1953, provided that: ''Sections 1, 2, and 3 of this Act [amending this section and sections 1339 and 1340 of this title] shall become effective with respect to the 1954 and subsequent crops of wheat.''

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (d), see note set out under section 1378 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1972 through 1977 crops of wheat.

FARM ACREAGE ALLOTMENTS FOR 1966 CROP OF WHEAT

Section 512 of Pub. L. 89–321 required the national, State, county, and farm acreage allotments for 1966 crop of wheat to be established in accordance with the provisions of law in effect prior to Nov. 3, 1965.

1963 DIVERTED WHEAT ACREAGE PROGRAM

Section 307 of Pub. L. 87–703 provided that payments were authorized to be made in cash or wheat by the Commodity Credit Corporation to producers on any farm, except farms with new farm wheat allotments, if marketing quotas were in effect for the 1963 wheat crop, if they diverted certain acreage from wheat production, and if they devoted such acreage to conservation uses; that such acreage was to be in addition to acreage diverted to conservation uses for which payment was made under other federal programs although cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to fifty per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

APPLICABILITY OF 1963 DIVERTED WHEAT ACREAGE PROGRAM TO INCREASED ALLOTMENT FARMS

Section 308(b) of Pub. L. 87–703 provided that the special wheat program formulated under section 307 of Pub. L. 87–703 [set out above] was not applicable to any farm receiving an additional acreage allotment for wheat in short supply under section 334(i) of the Agricultural Adjustment Act of 1938, as amended [subsec. (i) of this section].

1962 DIVERTED WHEAT ACREAGE PROGRAM

Section 124 of Pub. L. 87–128, as amended by Pub. L. 87–410, Mar. 3, 1962, 76 Stat. 19; Pub. L. 87–451, §§ 1–3, May 15, 1962, 76 Stat. 70, provided that producers on any farm, except farms with a new farm wheat allotment, were entitled to payments if marketing quotas were in effect for the 1962 wheat crop, if they diverted certain acreage from wheat production, and if such diverted acreage were devoted to conservation uses; that the payments were to be made by the Commodity Credit Corporation in cash or wheat and computed as therein provided; that additional acreage could be diverted and payments made with respect thereto; that any diverted acreage was to be in addition to acreage diverted for conservation uses for which payment is made under any other federal program except that cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to 50 per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

ACREAGE ALLOTMENT FOR 1954 CROP

Section 4(a) of act July 14, 1953, provided that the National acreage allotment for 1954 crop of wheat shall not be less than sixty-two million acres.

ACREAGE ALLOTMENT FOR 1950 CROP

Section 5 of act Aug. 29, 1949, ch. 518, 63 Stat. 677, provided that the farm acreage allotment of wheat for 1950 crop for any farm was not to be less than the larger of—

(A) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1949, and

(2) any other acreage seeded for the production of wheat in 1948 which was fallowed and from which no crop was harvested in the calendar year 1949, or

(B) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1948, and

(2) any other acreage seeded for the production of wheat in 1947 which was fallowed and from which no crop was harvested in the calendar year 1948,

adjusted in the same ratio as the national average seedings for the production of wheat during the ten calendar years 1939–1948 (adjusted as provided by this chapter) bore to the national acreage allotment for wheat for the 1950 crop: *Provided*, That no acreage was to be included under (A) or (B) which the Secretary, by appropriate regulations, determined would become an undue erosion hazard under continued farming. To the extent that the allotment to any county was insufficient to provide for such minimum farm allotments, the Secretary was to allot such county such additional acreage (which was to be in addition to the county, State, and national acreage allotments otherwise provided for under the Agricultural Adjustment Act of 1938, as amended [this chapter]) as was necessary in order to provide for such minimum farm allotments.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941. Such emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1334a. Omitted

CODIFICATION

Section, act Aug. 28, 1954, ch. 1041, title III, § 314, 68 Stat. 905, related to 1955 wheat acreage allotment in areas where a summer fallow crop rotation of wheat was a common practice.

§ 1334a–1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops

Notwithstanding any other provision of law, for the 1971 through 1977 crops of wheat, feed grains and cotton, if in any year at least 55 per centum of the cropland acreage on an established summer fallow farm is devoted to a summer fallow use, no further acreage shall be required to be set aside under the wheat, feed grain and cotton programs for such year.

(Pub. L. 91–524, title IV, § 410, Nov. 30, 1970, 84 Stat. 1367; Pub. L. 93–86, § 1(17), Aug. 10, 1973, 87 Stat. 230.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93–86 substituted ''1971 through 1977'' for ''1971, 1972, and 1973''.

§ 1334b. Designation of States outside commercial wheat-producing areas

If the acreage allotment for any State for any crop of wheat is twenty-five thousand acres or

less, the Secretary, in order to promote efficient administration of this chapter and the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], may designate such State as outside the commercial wheat-producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation.

(Feb. 16, 1938, ch. 30, title III, § 334a, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 314, 76 Stat. 620.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

§ 1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates

Notwithstanding any other provision of this subpart, no farm marketing quota for any crop of wheat shall be applicable to any farm with a farm acreage allotment of less than fifteen acres if the acreage of such crop of wheat does not exceed the small-farm base acreage determined for the farm, unless the operator elects in writing on a form and within the time prescribed by the Secretary to be subject to the farm acreage allotment and marketing quota. The small-farm base acreage for a farm shall be the smaller of (A) the average acreage of the crop of wheat planted for harvest in the three years 1959, 1960, and 1961, or such later three-year period, excluding 1963, determined by the Secretary to be representative, with adjustments for abnormal weather conditions, established crop-rotation practices on the farm, and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable small-farm base acreage, or (B) fifteen acres. The acreage allotment for any farm shall be the larger of (1) the small-farm base acreage determined as provided above on the basis of the three-year period 1959–1961, reduced by the same percentage by which the national acreage allotment for the crop is reduced below fifty-five million acres, or (2) the acreage allotment determined without regard to (1) above. If the operator of any such farm fails to make such election with respect to any crop of wheat, (i) for the purposes of section 1340 of this title, the farm acreage allotment for such crop of wheat shall be deemed to be the larger of (A) the small-farm base acreage or (B) the acreage allotment for the farm, (ii) the land-use provisions of section 1339 of this title shall be inapplicable to the farm, (iii) such crop of wheat shall not be eligible for price support, and (iv) wheat marketing certificates applicable to such crop shall not be issued with respect to the farm. The additional acreage required to provide acreage allotments for farms based upon small-farm base acreages under this section shall be in addition to National, State, and county acreage allotments. This section shall not be applicable to the crops planted for harvest in 1967 and subsequent years.

(Feb. 16, 1938, ch. 30, title III, § 335, 52 Stat. 54; July 26, 1939, ch. 379, 53 Stat. 1126; June 6, 1940, ch. 237, 54 Stat. 232; July 3, 1948, ch. 827, title II, §§ 204(a), 62 Stat. 1256; Aug. 28, 1954, ch. 1041, title III, § 309, 68 Stat. 903; Aug. 28, 1957, Pub. L. 85–203, § 1, 71 Stat. 477; Aug. 8, 1961, Pub. L. 87–128, title I, § 122(e), 75 Stat. 297; Sept. 27, 1962, Pub. L. 87–703, title III, § 315, 76 Stat. 621; Nov. 3, 1965, Pub. L. 89–321, title V, § 501(8), 79 Stat. 1201; Dec. 23, 1985, Pub. L. 99–198, title III, § 305, 99 Stat. 1380.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, temporarily substituting provisions relating to marketing penalties for provisions for small-farm exemptions from marketing quotas. See Effective and Termination Dates of 1985 Amendment note below.

1965—Pub. L. 89–321 made section inapplicable to crops planted for harvest in 1967 and subsequent years.

1962—Pub. L. 87–703 substituted provisions for small-farm exemption from marketing quotas for provisions of subsecs. (a), (b), (c), (e), and (f), respecting the establishment of marketing quotas, the amount of national and farm marketing quotas, designation of States outside commercial wheat-producing areas (now covered by section 1334b of this title), and feed wheat exemption permitting any producer to harvest up to 30 acres of wheat without penalty if the entire crop is used on the farm where produced.

1961—Subsec. (d). Pub. L. 87–128 repealed subsec. (d) which provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

1957—Subsec. (f). Pub. L. 85–203 added subsec. (f).

1954—Subsec. (a). Act Aug. 28, 1954, § 309(a), substituted ''May 15'' for ''July 1''.

Subsec. (e). Act Aug. 28, 1954, § 309(b), added subsec. (e).

1948—Subsec. (a). Act July 3, 1948, changed conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

1940—Subsec. (d). Act June 6, 1940, substituted ''two hundred'' for ''one hundred''.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 305 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–321 effective beginning with the crop planted for harvest in calendar year 1966,

see section 501 of Pub. L. 89–321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 122(e) of Pub. L. 87–128 provided that the amendment made by that section is effective with 1962 crop of wheat.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

CROSS REFERENCES

Agreements for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Price support levels, see section 1441 of this title.

Supplemental provisions relating to corn and wheat marketing quotas, see section 1340 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1336, 1339, 1379c, 1441, 1445a of this title; title 16 section 590p.

§ 1336. Referendum

If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after December 20, 1985.

(Feb. 16, 1938, ch. 30, title III, § 336, 52 Stat. 55; July 3, 1948, ch. 827, title II, § 204(b), 62 Stat. 1256; July 25, 1961, Pub. L. 87–104, 75 Stat. 220; Aug. 8, 1961, Pub. L. 87–128, title I, § 122(f), 75 Stat. 297; July 19, 1962, Pub. L. 87–540, 76 Stat. 170; Sept. 27, 1962, Pub. L. 87–703, title III, § 316, 76 Stat. 621; Apr. 11, 1964, Pub. L. 88–297, title II, § 202(6), 78 Stat. 179; July 24, 1965, Pub. L. 89–82, 79 Stat. 258; July 23, 1970, Pub. L. 91–348, 84 Stat. 448; Oct. 15, 1970, Pub. L. 91–455, 84 Stat. 969; July 10, 1973, Pub. L. 93–68, 87 Stat. 161; June 17, 1977, Pub. L. 95–48, 91 Stat. 229; July 23, 1981, Pub. L. 97–24, § 1, 95 Stat. 143; Oct. 14, 1981, Pub. L. 97–62, 95 Stat. 1010; Oct. 20, 1981, Pub. L. 97–67, § 2, 95 Stat. 1039; Nov. 13, 1981, Pub. L. 97–77, § 2(b), 95 Stat. 1069; July 11, 1985, Pub. L. 99–63, 99 Stat. 119; Dec. 23, 1985, Pub. L. 99–198, title III, § 306, 99 Stat. 1382.)

CODIFICATION

"December 20, 1985" substituted in text for "adjournment sine die of the first session of the Ninety-ninth Congress".

AMENDMENTS

1985—Pub. L. 99–198, temporarily amended section generally. Prior to amendment, section read as follows: "If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be con-

ducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.'' See Effective and Termination Dates of 1985 Amendment note below.

Pub. L. 99–63 substituted ''year beginning June 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress'' for ''year beginning June 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) January 1, 1982''.

1981—Pub. L. 97–77 substituted ''January 1, 1982'' for ''November 15, 1981'' in sentence covering the date of the referendum for the national marketing quota for wheat for the marketing year beginning June 1, 1982.

Pub. L. 97–62 and Pub. L. 97–67 made identical amendments providing for substitution of ''November 15, 1981'' for ''October 15, 1981'' in sentence covering the date of the referendum for the national marketing quota for wheat for the marketing year beginning June 1, 1982.

Pub. L. 97–24 substituted ''June 1, 1982'' for ''June 1, 1978'', ''Ninety-seventh Congress'' for ''Ninety-fifth Congress'', and ''October 15, 1981'' for ''October 15, 1977''.

1977—Pub. L. 95–48 substituted provisions extending the date for the conduct of the referendum with respect to the national marketing for wheat for the marketing year beginning June 1, 1978, by allowing the referendum to be conducted not later than thirty days after the adjournment sine die of the first session of the Ninety-fifth Congress or Oct. 15, 1977, whichever is earlier, for provisions which had set the time limits for the referendums with respect to the national marketing quotas for wheat for the marketing years beginning July 1, 1966, July 1, 1971, and July 1, 1974, respectively.

1973—Pub. L. 93–68 extended time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1974 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment of the first session of the Ninety-third Congress or Oct. 15, 1973.

1970—Pub. L. 91–455 inserted provision extending until 30 days after adjournment sine die of the second session of the 91st Congress the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1971 crop of wheat, if marketing quotas are to be in effect for that crop.

Pub. L. 91–348 extended the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1971 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment sine die of the second session of the ninety-first Congress or October 15, 1970.

1965—Pub. L. 89–82 extended until 30 days after adjournment sine die of the first session of the 89th Congress the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1966 crop of wheat, if marketing quotas are to be in effect for that crop.

1964—Pub. L. 88–297 substituted ''not later than August 1 of the calendar year in which such national marketing quota is proclaimed'' for ''not later than sixty days after such proclamation is published in the Federal Register''.

1962—Pub. L. 87–703 substituted provisions for a referendum to be held not later than sixty days after publication in the Federal Register of national marketing quota proclamation to determine if the farmers favor or oppose the quota for the year or years for which proclaimed, making producers on farms having farm acreage allotments eligible to vote except farmers with small farm base acreage for which the operator did not elect to be subject to the program, directing results of referendum to be proclaimed within 30 days after date of referendum for provisions for referendum between date of proclamation of national marketing quota and July 25, making farmers, who produced more than 15 acres of wheat eligible to vote, excluding farmers who obtained the feed wheat exemption for the immediately preceding crop, permitting such referendum for marketing year beginning July 1, 1962, to be held not later than Aug. 26, 1961, and excluding farmers from voting in the 1961 referendum who had not produced in excess of 13.5 acres of wheat in at least one of the years 1959, 1960, or 1961 and permitting such referendum for marketing year beginning July 1, 1963, to be held not later than Aug. 31, 1962.

Pub. L. 87–540 inserted provisions for conducting wheat marketing quota referendum for marketing year beginning July 1, 1963, not later than August 31, 1962.

1961—Pub. L. 87–128 prohibited farmers who have not produced in excess of 13.5 acres of wheat in at least one of the years 1959, 1960, or 1961 from voting in the referendum conducted with respect to the national marketing quota for the marketing year beginning July 1, 1962.

Pub. L. 87–104 inserted provisions for conducting wheat marketing quota referendum for marketing year beginning July 1, 1962, not later than August 26, 1961.

1948—Act July 3, 1948, substituted ''July 25'' for ''June 10''.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 306 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

DATE OF REFERENDUM FOR 1954 CROP

Act July 14, 1953, ch. 194, § 4(b), 67 Stat. 152, provided that the referendum with respect to 1954 crop of wheat could be held as late as Aug. 15, 1953.

CROSS REFERENCES

Referendum on orders regulating handling of commodities, see section 608c of this title.

§ 1337. Repealed. Pub. L. 87–703, title III, § 317, Sept. 27, 1962, 76 Stat. 622

Section, act Feb. 16, 1938, ch. 30, title III, § 337, 52 Stat. 55, related to adjustment and suspension of quotas.

EFFECTIVE DATE OF REPEAL

Repeal effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

§ 1338. Transfer of quotas

Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.

(Feb. 16, 1938, ch. 30, title III, § 338, 52 Stat. 55; Dec. 23, 1985, Pub. L. 99–198, title III, § 307, 99 Stat. 1382.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, temporarily substituting provisions for voluntary surrender of any part of a farm marketing quota by the producer and reallocation by the Secretary to other farms having farm marketing quotas for provisions authorizing allocation of excess quotas to other farms on which the acreage allotment had not been exceeded. See Effective and Termination Dates of 1985 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 307 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1339. Land use

(a) Penalties: computation, lien, joint and several liability and interest; exceptions: nonsurplus supply crops, substantial impairment, and nonproduction of wheat; diverted acreage: amount, annual identity, and grazing; crops available for marketing

(1) During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title) is reduced below fifty-five million acres by the number of acres in the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title). The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this part.

(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments

The Secretary is authorized to formulate and carry out a program with respect to the crops of wheat planted for harvest in the calendar years 1964 through 1970 under which, subject to such terms and conditions as he determines are desirable to effectuate the purposes of this section, payments may be made in amounts not in excess of 50 per centum of the estimated basic county support rate for wheat not accompanied by marketing certificates on the normal production of the acreage diverted taking into account the income objectives of the chapter, determined by the Secretary to be fair and reasonable with respect to acreage diverted pursuant to subsection (a) of this section. Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat. The Secretary may permit producers on any farm to divert from the production of wheat an acreage, in addition to the acreage diverted pursuant to subsection (a) of this section, equal to 50 per centum of the farm acreage allotment for wheat: *Provided*, That the producers on any farm may, at their election, divert such acreage in addition to the acreage diverted pursuant to subsection (a) of this section, as will bring the total acreage diverted on the farm to twenty-five acres. Such program shall require (1) that the diverted acreage shall be devoted to conservation uses approved by the Secretary; (2) that the total acreage of cropland on the farm devoted to soil-conserving uses, including summer fallow and idle land but excluding the acreage diverted as provided above, shall be not less than the total average acreage of cropland devoted to soil-conserving uses including summer fallow and idle land on the farm during a representative period, as determined by the Secretary, adjusted to the extent the Secretary determines appropriate for (i) abnormal weather conditions or other factors affecting production, (ii) established crop-rotation practices on the farm, (iii) participation in other Federal farm programs, (iv) unusually high percentage of land on the farm devoted to conserving uses, and (v) other factors which the Secretary determines should be considered for the purpose of establishing a fair and equitable soil-conserving acreage for the farm; and (3) that the producer shall not knowingly exceed (i) any farm acreage allotment in effect for any commodity produced on the farm, and (ii) except as the Secretary may by regulations prescribe, with the farm acreage allotments on any other farm for any crop in which the producer has a share: *Provided*, That no producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty: *And provided further*, That no producer shall be deemed to have exceeded a farm acreage allotment for any crop of wheat if the farm is exempt from the farm marketing quota for such crop under section 1335 of this title. The producers on a new farm shall not be eligible for payments hereunder. The Secretary shall provide for the sharing of payment among producers on the farm on a fair and equitable basis. Payments may be made in cash or in wheat.

(c) Adjustment of payments

The Secretary may provide for adjusting any payment on account of failure to comply with the terms and conditions of the land-use program formulated under subsection (b) of this section.

(d) Advance payments

Not to exceed 50 per centum of any payment to producers under subsection (b) of this section may be made in advance of determination of performance.

(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate

The Secretary may permit all or any part of the diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production of the commodity is needed to provide an adequate supply, is not likely to increase the cost of the price-support program and will not adversely affect farm income, subject to the condition that payment with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable taking into consideration the use of such acreage for the production of such crops: *Provided*, That in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

(f) Additional terms and conditions

The program formulated pursuant to subsection (b) of this section may include such terms and conditions, including provision for the control of erosion, in addition to those specifically provided for herein, as the Secretary determines are desirable to effectuate the purposes of this section.

(g) Regulations

The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.

(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses

The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this section and to pay administrative expenses necessary in carrying out this section during the period ending June 30, 1965. There is authorized to be appropriated such amounts as

may be necessary thereafter to pay such administrative expenses.

(Feb. 16, 1938, ch. 30, title III, § 339, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 318, 76 Stat. 622; amended Apr. 11, 1964, Pub. L. 88–297, title II, § 202 (7)–(9), 78 Stat. 179; Nov. 3, 1965, Pub. L. 89–321, title V, §§ 501(9), (10), 507, 79 Stat. 1201, 1204; Oct. 11, 1968, Pub. L. 90–559, § 1(1), 82 Stat. 996.)

PRIOR PROVISIONS

A prior section 1339, act Feb. 16, 1938, ch. 30, title III, § 339, 52 Stat. 55, related to penalties for marketing wheat in excess of quotas, prior to repeal by act July 14, 1953, ch. 194, §§ 2, 5, 67 Stat. 151, 152, effective with respect to the 1954 and subsequent crops of wheat. See section 1340(2) of this title.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–559 provided for a one year extension through 1970.

1965—Subsec. (a)(1). Pub. L. 89–321, § 507, inserted ''(less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title)'' after ''national acreage allotment'' wherever appearing.

Subsec. (b). Pub. L. 89–321, § 501(9), substituted ''crops of wheat planted for harvest in the calendar years 1964 through 1969'' for ''1964 and 1965 crops of wheat'', ''50 per centum of the farm acreage allotment'' for ''20 per centum of the farm acreage allotment'', and ''twenty-five acres'' for ''fifteen acres''.

Subsec. (e). Pub. L. 89–321, § 501(10), authorized Secretary to permit all or part of diverted acreage to be devoted to mustardseed, crambe, and plantago ovato in addition to previously authorized guar, sesame, safflower, sunflower, castor beans, and flax, if he determines that such production of the commodity is needed, is not likely to increase cost of price-support program, and will not adversely affect farm income, and removed from proviso the prohibition against making available price supports for production of such crops on diverted acreage.

1964—Subsec. (a)(1). Pub. L. 88–297, § 202(7), temporarily suspended land-use penalties and made the diversion of land from the production of wheat only a condition of eligibility for receiving wheat marketing certificates. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (b). Pub. L. 88–297, § 202(8), inserted in first sentence ''for wheat not accompanied by marketing certificates'' after ''basic county support rate'' and inserted after first sentence ''Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat.''

Subsec. (h). Pub. L. 88–297, § 202(9), substituted ''June 30, 1965'' for ''June 30, 1963''.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 501 of Pub. L. 89–321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89–321, set out as a note under section 1332 of this title.

Section 507 of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1967.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 202(7) of Pub. L. 88–297, as amended by Pub. L. 89–321, title V, § 505(1), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to crops planted for harvest in calendar years 1964 through 1970.

EFFECTIVE DATE

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99–198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

DIVERSION PROGRAMS; GOOD FAITH PERFORMANCE; PAYMENTS

Performance in good faith as meeting requirements of this section and authorizing payments, see section 1339a of this title.

WHEAT DIVERSION PROGRAMS; CREDITS IN ESTABLISHMENT OF STATE, COUNTY AND FARM ACREAGE ALLOTMENTS FOR WHEAT

Credits to State, county and farm of acreage diverted from production of wheat as though actually devoted to such production, see section 1339b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1335, 1379c, 1445a of this title.

§ 1339a. Good faith reliance

Notwithstanding any other provision of law, to the extent the Secretary of Agriculture considers it desirable in order to provide fair and equitable treatment, the Secretary may make price support or other payments available to farmers who have, in attempting to comply with the requirements of any price support or other program administered by the Secretary or any other requirements in law affecting such person's eligibility under such programs, taken actions in good faith in reliance on the action or advice of an authorized representative of the Secretary. The Secretary may provide such price support or other payments to the extent the Secretary determines such farmer has been injured by such good faith reliance and may require such farmer to take necessary actions designed to remedy any failure to comply with such programs. The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.

(Pub. L. 87–703, title III, § 326, Sept. 27, 1962, 76 Stat. 631; Pub. L. 88–26, § 4, May 20, 1963, 77 Stat. 47; Pub. L. 89–321, title III, § 303, Nov. 3, 1965, 79 Stat. 1192; Pub. L. 101–624, title XI, § 1132(c), Nov. 28, 1990, 104 Stat. 3515; Pub. L. 102–237, title I, § 118(d), Dec. 13, 1991, 105 Stat. 1842.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1991—Pub. L. 102–237 inserted at end ''The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.''

1990—Pub. L. 101–624 amended section generally. Prior to amendment, section read as follows: ''Notwithstanding any other provision of law, performance rendered in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of any program under which price support is extended or payments are made to farmers, and price support may be extended or payments may be made therefor in accordance with such action or advice to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.''

1965—Pub. L. 89–321 substituted ''the requirements of any program under which price support is extended or payments are made to farmers, and price support may be extended or'' for ''the requirements of subsections (c), (d), (g), and (h) of section 590p of title 16, or of section 307 of the Food and Agriculture Act of 1962, section 1339 of this title, or of section 124 of the Agriculture Act of 1961''.

1963—Pub. L. 88–26 inserted reference to subsection (h) of section 590p of title 16.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

SHORT TITLE OF 1963 AMENDMENT

Section 1 of Pub. L. 88–26 provided: ''That this Act [amending this section and section 590p of Title 16 and provisions set out as note under section 1441 of this title] may be cited as the 'Feed Grain Act of 1963'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6998 of this title.

§ 1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat

In the establishment of State, county, and farm acreage allotments for wheat under this chapter, the acreage which is determined under regulations of the Secretary to have been diverted from the production of wheat under the special programs formulated pursuant to section 307 of this Act, section 1339 of this title, and section 124 of the Agricultural Act of 1961, shall be credited to the State, county, and farm as though such acreage had actually been devoted to the production of wheat.

(Pub. L. 87–703, title III, § 327, Sept. 27, 1962, 76 Stat. 631.)

REFERENCES IN TEXT

Section 307 of this Act (the Food and Agriculture Act of 1962) and section 124 of the Agricultural Act of 1961, referred to in text, are set out as notes under section 1334 of this title.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

§ 1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage

Effective with the 1964 crop, during any year in which an acreage diversion program is in effect for feed grains, the Secretary shall, notwithstanding any other provision of law, permit producers of feed grains to have acreage devoted to the production of feed grains considered as devoted to the production of wheat and producers of wheat to have acreage devoted to the production of wheat considered as devoted to the production of feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program for feed grains or wheat. In establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, the Secretary may take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

(Pub. L. 87–703, title III, § 328, Sept. 27, 1962, 76 Stat. 631; Pub. L. 89–321, title V, § 514, Nov. 3, 1965, 79 Stat. 1206.)

AMENDMENTS

1965—Pub. L. 89–321 authorized the Secretary, in establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, to take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1332 of this title; title 16 section 590p.

§ 1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans

(a) Notwithstanding any other provision of law, the Secretary shall permit any producer who is participating in the wheat program under title IV of this Act, in the feed grain program under title V of this Act, or in the cotton program under title VI of this Act, in any year in which an acreage diversion or set-aside program is in effect, under any such program in which such producer is participating, subject to the conditions prescribed in subsection (b) of this section, to plant and harvest hay from 25 per centum of the acreage on the farm diverted from

production under such programs or twenty-five acres, whichever is greater.

(b) Any producer who elects to plant and harvest hay on diverted or set aside acreage pursuant to this section shall first agree not to use any such hay harvested from such acreage unless authorized to do so by the Secretary.

(c) When any diverted or set aside acreage has been planted and harvested under authority of this section, the hay harvested therefrom shall be baled and stored in sealed storage on the farm in accordance with such regulations as the Secretary may prescribe and shall be available only for use during periods of emergency declared by the Secretary. In order to avoid deterioration of such hay stored on the farm for emergency purposes pursuant to this section, the Secretary may permit such hay to be removed and used or sold from time to time so long as an amount of hay equal to the amount removed is previously placed in storage and sealed.

(d) Any farmer who has hay stored on his farm for emergency purposes pursuant to this section may remove such hay from storage and use it whenever the Secretary has (1) designated as an emergency area the area in which such farm is located, and (2) specifically authorized the use of emergency hay by farmers in the area.

(e) The Secretary of Agriculture is authorized to make or guarantee loans to farmers, both tenants and landowners, to assist such farmers in the construction of storage facilities on the farm for the storage of emergency hay pursuant to the provisions of this section if such farmers are unable to obtain loans from commercial sources at reasonable rates and on reasonable terms and conditions. Loans made by the Secretary under this subsection shall be made at the current rate of interest for periods not exceeding ten years, and on such other terms and conditions as the Secretary may prescribe.

(Pub. L. 91–524, title VIII, § 805, Nov. 30, 1970, 84 Stat. 1382.)

REFERENCES IN TEXT

The wheat program under title IV of this Act, the feed grain program under title V of this Act, and the cotton program under title VI of this Act, referred to in subsec. (a), mean the programs for such crops as set out in the Agricultural Act of 1970, Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, as amended. Title IV of that Act enacted section 1334a–1 of this title, amended sections 1301, 1305, 1306, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, and 1445a of this title, and enacted provisions set out as notes under sections 1301, 1305, 1306, 1330 to 1334, 1335, 1336, 1338, 1339, and 1379c of this title. Title V of that Act amended section 1444b of this title and provisions set out as a note under section 1444b of this title. Title VI of that Act enacted sections 1342a, 1350a, and 2119 of this title, amended sections 1305, 1344b, 1350, 1374, 1378, 1379, 1385, 1427, 1428, 1444, and 1444a of this title, and enacted provisions set out as notes under sections 1305, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1377, 1378, 1379, 1385, 1427, 1428, 1444, and 1446d of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

§ 1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

Notwithstanding the other provisions of this chapter—

(1) The farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the projected farm yield multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is marketed prior to the beginning of such marketing year.

(2) Whenever farm marketing quotas are in effect with respect to any crop of wheat, the producers on a farm shall be subject to a penalty on the farm marketing excess of wheat at a rate per bushel equal to 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is harvested. Each producer having an interest in the crop of wheat on any farm for which a farm marketing excess of wheat is determined shall be jointly and severally liable for the entire amount of the penalty on the farm marketing excess.

(3) The farm marketing excess for wheat shall be regarded as available for marketing, and the penalty and the storage amount or amounts to be delivered to the Secretary of the commodity shall be computed upon twice the normal production of the excess acreage. Where, upon the application of the producer for an adjustment of penalty or of storage, it is shown to the satisfaction of the Secretary that the actual production of the excess acreage is less than twice the normal production

thereof, the difference between the amount of the penalty or storage as computed upon the basis of twice the normal production and as computed upon the basis of actual production shall be returned to or allowed the producer. The Secretary shall issue regulations under which the farm marketing excess of the commodity for the farm may be stored or delivered to him. Upon failure to store or deliver to the Secretary the farm marketing excess within such time as may be determined under regulations prescribed by the Secretary, the penalty computed as aforesaid shall be paid by the producer. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce.

(4) Until the producers on any farm store, deliver to the Secretary, or pay the penalty on, the farm marketing excess of any crop of wheat, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty.

(5) The penalty upon wheat stored shall be paid by the producer at the time, and to the extent, of any depletion in the amount of the commodity so stored, except depletion resulting from some cause beyond the control of the producer.

(6) Whenever the planted acreage of the then current crop of wheat on any farm is less than the farm acreage allotment for such commodity, the total amount of the commodity from any previous crops required to be stored in order to postpone or avoid payment of penalty shall be reduced by that amount which is equal to the normal production of the number of acres by which the farm acreage allotment exceeds the planted acreage. The provisions of section 1326(b) and (c) of this title shall be applicable also to wheat.

(7) Until the farm marketing excess of wheat is stored or delivered to the Secretary or the penalty thereon is paid, each bushel of the commodity produced on the farm which is sold by the producer to any person within the United States shall be subject to the penalty as specified in paragraph (2) of this section. Such penalty shall be paid by the buyer, who may deduct an amount equivalent to the penalty from the price paid to the producer. If the buyer fails to collect such penalty, such buyer and all persons entitled to share in the wheat marketed from the farm or the proceeds thereof shall be jointly and severally liable for such penalty.

(8) The marketing penalty for rice produced in the calendar year in which any marketing year begins (if beginning with or after the 1941–1942 marketing year) shall be at a rate equal to 50 per centum of the basic rate of the loan for cooperators for such marketing year under section 1302 of this title and this section.

(9) Omitted.

(10) The provisions of this section are amendatory of and supplementary to this chapter, and all provisions of law applicable in respect of marketing quotas and loans under such chapter as so amended and supplemented shall be applicable, but nothing in this section shall be construed to amend or repeal sections 1301(b)(6), 1323(b), or 1335(d) of this title.

(11) The persons liable for the payment or collection of the penalty or any amount of wheat shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(12) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him.

(May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905; Aug. 8, 1961, Pub. L. 87–128, title I, § 122(d), 75 Stat. 297; Sept. 27, 1962, Pub. L. 87–703, title III, §§ 309, 319, 76 Stat. 618, 624; Oct. 11, 1962, Pub. L. 87–801, 76 Stat. 909; Nov. 3, 1965, Pub. L. 89–321, title V, § 511(b), 79 Stat. 1205.)

References in Text

Section 1302 of this title, referred to in par. (8), was repealed by act Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057.

Section 1323(b) of this title, referred to in par. (10), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, and had provided that no farm marketing quota with respect to any crop of corn shall be applicable to any farm on which the normal production of the acreage planted to corn is less than 300 bushels.

Section 1335(d) of this title, referred to in par. (10), was repealed by Pub. L. 87–129, title I, § 122(e), Aug. 8, 1961, 75 Stat. 297, and had provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

Codification

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

Par. (9), which directed the Commodity Credit Corporation to make loans upon the 1941 to 1946 cotton, wheat, rice, tobacco, and peanut crops for which producers did not disapprove marketing quotas at the rate of 85% of parity to cooperators and, to noncooperators, at the rate of 60% of the rate specified for cooperators and limited to that amount of the commodity as would be subject to penalty if marketed by the noncooperators, was omitted from the Code.

Amendments

1965—Par. (1). Pub. L. 89–321 substituted ''projected farm yield'' for ''normal yield of wheat per acre established for the farm''.

1962—Par. (1). Pub. L. 87–703, § 319(1), substituted requirement that computation of the farm marketing excess initially be double the farm normal yield of wheat times the excess acres, such excess acres being reduced to the actual yield times the excess acres, upon proof

by the producer of the actual yield, for provision that the farm marketing excess could not be more than the actual production of wheat on the farm less the normal production of the farm acreage allotment and provided that the acreage of wheat not disposed of by the prescribed date would be considered wheat acreage, with the wheat production thereon appraised for the purposes of determining the farm marketing quota and farm marketing excess, that wheat acreage disposed of prior to the disposal date would not be considered acreage and that the acreage of volunteer wheat not disposed of would be considered wheat acreage.

Par. (2). Pub. L. 87–703, § 319(2), increased from 45 to 65 per centum the rate of penalty on farm marketing excess and provided for joint and several liability for such penalty.

Par. (3). Pub. L. 87–703, § 319(3), required computation of the farm marketing excess initially upon twice the normal yield and eliminated reference to corn. Act Aug. 28, 1954, had made the section in applicable to corn.

Par. (4). Pub. L. 87–703, § 319(4), inserted ''and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest'' after ''produced on the farm'' and struck out reference to corn. Act Aug. 28, 1954, had made the section inapplicable to corn.

Pars. (5), (6). Pub. L. 87–703, § 319(5), (6), struck out reference to corn. Act Aug. 28, 1954, had made section inapplicable to corn.

Par. (7). Pub. L. 87–703, § 319(7), (8), redesignated par. (8) as (7), and inserted provision for joint and several liability for penalty and struck out reference to corn, respectively. Act Aug. 28, 1954, had made section inapplicable to corn. Provisions of former par. (7), which provided a 15-acre exemption but provided for a farm marketing quota on 1962 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 13.5 acres, or (2) of the highest number of acres actually planted to, wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961 and provisions of former par. (7), added by Pub. L. 87–703, § 309, which provided for a farm marketing quota on 1963 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 15 acres, or (2) the highest number of acres actually planted to wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961, or 1963 (provided by Pub. L. 87–801), were repealed by such section 319(7) and are covered by section 1335 of this title.

Pars. (8) to (10). Pub. L. 87–703, § 319(7), redesignated pars. (9) to (11) as (8) to (10). Former par. (8) redesignated (7).

Par. (11). Pub. L. 87–703, § 319(9), added par. (11). Former par. (11) redesignated (10).

Par. (12). Pub. L. 87–703, § 319(9), added par. (12). Former par. (12), which limited farm marketing excess for any crop of wheat and provided for return to producer of difference between amount of penalty or storage as computed upon farm marketing excess before adjustment and as computed upon adjusted farm marketing excess, where a downward adjustment in amount of farm marketing excess was made, was repealed by such section 319(9).

1961—Par. (7). Pub. L. 87–128 authorized Secretary to prescribe regulations relating to the exemption of farms from marketing quotas on any crop of wheat, specified the exemption for the 1962 crop and eliminated marketing penalty provisions relating to nonallotment farms under the Soil Conservation and Domestic Allotment Act.

1954—Act Aug. 28, 1954, amended section generally to make it inapplicable to corn.

1953—Act July 14, 1953, omitted penalty for marketing corn in excess of quotas and changed penalty for marketing wheat in excess of quotas from 50 per centum of basic loan rate on commodity for cooperators to 45 per centum of parity price.

1949—Par. (9). Act Aug. 29, 1949, struck out ''cotton and'' after ''penalty for''.

1941—Par. (10). Act Dec. 26, 1941, ch. 626, substituted ''1941, 1942, 1943, 1944, 1945 and 1946 crops of the commodities cotton, corn, wheat, rice, tobacco and peanuts'' for ''1941 crop of the commodities cotton, corn, wheat, rice, or tobacco'' and ''for the marketing year beginning in the calendar year in which such crop is harvested'' for ''marketing year beginning in 1941.''

Par. (12). Act Dec. 26, 1941, ch. 636, added par. (12).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 319 of Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT

Amendment by act July 14, 1953, effective with respect to 1954 and subsequent crops of wheat, see section 5 of act July 14, 1953, set out as a note under section 1334 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to crops of wheat planted for harvest in calendar years 1996 through 2002, see section 7301(c) of this title.

Pub. L. 101–624, title III, § 304, Nov. 28, 1990, 104 Stat. 3400, provided that: ''The joint resolution entitled 'A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended', approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1991 through 1995.''

Pub. L. 99–198, title III, § 311, Dec. 23, 1985, 99 Stat. 1395, provided that: ''The joint resolution entitled 'A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended', approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1986 through 1990.''

Pub. L. 97–98, title III, § 304, Dec. 22, 1981, 95 Stat. 1227, provided that: ''Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1982 through 1985.''

Pub. L. 95–113, title IV, § 406, Sept. 29, 1977, 91 Stat. 927, provided that: ''Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981.''

Pub. L. 91–524, title IV, § 406, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93–86, § 1(13), Aug. 10, 1973, 87 Stat. 229, provided that: ''Public Law 74, Seventy-seventh Congress (68 Stat. 905) [this section], shall not be applicable to the crops of wheat planted for harvest in the calendar years 1971 through 1977.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1335, 7301 of this title; title 16 section 590p.

SUBPART IV—MARKETING QUOTAS—COTTON

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1341. Legislative findings

American cotton is a basic source of clothing and industrial products used by every person in the United States and by substantial numbers of people in foreign countries. American cotton is sold on a world-wide market and moves from the places of production almost entirely in interstate and foreign commerce to processing establishments located throughout the world at places outside the State where the cotton is produced.

Fluctuations in supplies of cotton and the marketing of excessive supplies of cotton in interstate and foreign commerce disrupt the orderly marketing of cotton in such commerce with consequent injury to and destruction of such commerce. Excessive supplies of cotton directly and materially affect the volume of cotton moving in interstate and foreign commerce and cause disparity in prices of cotton and industrial products moving in interstate and foreign commerce with consequent diminution of the volume of such commerce in industrial products.

The conditions affecting the production and marketing of cotton are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of excessive supplies of cotton and fluctuations in supplies, cannot prevent indiscriminate dumping of excessive supplies on the Nationwide and foreign markets, cannot maintain normal carry-overs of cotton, and cannot provide for the orderly marketing of cotton in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in cotton be protected from the burdens caused by the marketing of excessive supplies of cotton in such commerce, that a supply of cotton be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of excessive supplies of cotton.

The provisions of this subpart affording a cooperative plan to cotton producers are necessary and appropriate to prevent the burdens on interstate and foreign commerce caused by the marketing in such commerce of excessive supplies, and to promote, foster, and maintain an orderly flow of an adequate supply of cotton in such commerce.

(Feb. 16, 1938, ch. 30, title III, § 341, 52 Stat. 55.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

1947 MARKETING QUOTAS AND ACREAGE ALLOTMENTS

Joint Res. July 24, 1946, ch. 616, 60 Stat. 662, suspended marketing quotas and acreage allotments for 1947 in view of the critical shortage of fats and oils and protein feeds.

§ 1342. National marketing quota; proclamation; amount; date of proclamation

Whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton (standard bales of five hundred pounds gross weight) adequate, together with (1) the estimated carryover at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton: *Provided*, That beginning with the 1961 crop, the national marketing quota shall be not less than a number of bales equal to the estimated domestic consumption and estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed, except that the Secretary shall make such adjustment in the amount of such quota as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries which would be available for the marketing year for which the quota is being proclaimed if no adjustment of such quota is made hereunder, to assure the maintenance of adequate but not excessive stocks in the United States to provide a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton consuming countries, and for purposes of national security; but the Secretary, in making such adjustments, may not reduce the national marketing quota for any year below (i) one million bales less than the estimated domestic consumption and estimated exports for the marketing year for which such quota is being proclaimed, or (ii) ten million bales, whichever is larger. Such proclamation shall be made not later than October 15 of the calendar year in which such determination is made. Notwithstanding the foregoing provisions of this section, the national marketing quota for cotton for 1957 and 1958 shall be not less than the number of bales required to provide a national acreage allotment for 1957 and 1958 equal to the national acreage allotment for 1956: *Provided*, That if the acreage allotment for any State for 1957 or 1958 is less than its allotment for the preceding year by more than 1 per centum, such State allotment shall be increased so that the reduction shall not exceed 1 per centum per annum, and the acreage required for such increase shall be in addition to the national acreage allotment for such year. Additional acreage apportioned to a State for 1957 or 1958 under the foregoing proviso shall not be taken into account in establishing future State allotments. Notwithstanding any other provision of this chapter, the national marketing quota for upland cotton for 1959 and subsequent years shall be not less than the number of bales required to provide a national acreage allotment for each such year of sixteen million acres.

(Feb. 16, 1938, ch. 30, title III, § 342, 52 Stat. 56; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; May 28, 1956, ch. 327, title III, § 302, 70 Stat. 203; Aug. 28, 1958, Pub. L. 85–835, title I, § 103(1), (2), 72 Stat. 989, 990.)

AMENDMENTS

1958—Pub. L. 85–835, § 103(1), substituted proviso prescribing, beginning with the 1961 crop, a minimum national marketing quota for cotton equal to estimated domestic consumption and exports less imports subject to adjustment assuring maintenance of adequate but not excessive stocks, the adjustment not to reduce the national marketing quota for any year below the larger of (1) estimated domestic consumption and exports less one million bales or (2) ten million bales, for provisions prescribing for a national marketing quota not less than the smaller of ten million bales or one million bales less than estimated domestic consumption plus exports and providing for 1950 a national marketing quota based on a twenty-one million national acreage allotment.

Pub. L. 85–835, § 103(2), provided for a national marketing quota for upland cotton for 1959 and subsequent years based on a sixteen million national acreage allotment.

1956—Act May 28, 1956, provided that national marketing quota for cotton for 1957 and 1958 shall not be less than the number of bales required to provide a national acreage allotment for 1957 and 1958 equal to national acreage allotment for 1956.

1949—Act Aug. 29, 1949, amended section generally to set up a national marketing quota and to provide for amount and proclamation of such quota.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Pub. L. 101–624, title V, § 502, Nov. 28, 1990, 104 Stat. 3440, provided that: ''Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1991 through 1995 crops of upland cotton.''

Pub. L. 99–198, title V, § 502, Dec. 23, 1985, 99 Stat. 1418, provided that: ''Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) [7 U.S.C. 1342, 1343, 1344, 1345, 1346, and 1377] shall not be applicable to any of the 1986 through 1990 crops of upland cotton.''

Pub. L. 98–88, § 3, Aug. 26, 1983, 97 Stat. 494, provided that: ''Sections 342, 343, 344, 344a, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1342, 1343, 1344, 1344b, 1345, 1346, and 1377 of this title], shall not be applicable to the 1984 and subsequent crops of extra long staple cotton.''

Pub. L. 97–98, title V, § 501, Dec. 22, 1981, 95 Stat. 1234, provided that: ''Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 [sections 1342, 1343, 1344, 1345, 1346, and 1377 of this title] shall not be applicable to upland cotton of the 1982 through 1985 crops.''

Pub. L. 95–113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, provided that: ''Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1342, 1343, 1344, 1345, 1346, and 1377 of this title], shall not be applicable to upland cotton of the 1978 through 1981 crops.''

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section shall not be applicable to upland cotton of 1971 through 1977 crops.

PRELIMINARY ALLOTMENTS FOR 1996 CROP OF UPLAND COTTON

Pub. L. 101–624, title V, § 505, Nov. 28, 1990, 104 Stat. 3440, provided that: ''Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1996 crop.''

PRELIMINARY ALLOTMENTS FOR 1991 CROP OF UPLAND COTTON

Pub. L. 99–198, title V, § 506, Dec. 23, 1985, 99 Stat. 1418, provided that: ''Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1991 crop.''

PRELIMINARY ALLOTMENTS FOR 1986 CROP OF UPLAND COTTON

Pub. L. 97–98, title V, § 506, Dec. 22, 1981, 95 Stat. 1241, provided that: ''Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1986 crop.''

PRELIMINARY ALLOTMENTS FOR 1982 CROP OF UPLAND COTTON

Pub. L. 95–113, title VI, § 606, Sept. 29, 1977, 91 Stat. 940, provided that: ''Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1982 crop.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1343, 1344 of this title.

§ 1342a. National cotton production goal

The Secretary shall, not later than November 15, of the calendar years 1970 through 1976 proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cot-

ton consuming countries and, in addition, to provide an adequate reserve for purposes of national security.

(Feb. 16, 1938, ch. 30, title III, § 342a, as added Nov. 30, 1970, Pub. L. 91–524, title VI, § 601(2), 84 Stat. 1371; amended Aug. 10, 1973, Pub. L. 93–86, § 1(19)(B), 87 Stat. 233.)

AMENDMENTS

1973—Pub. L. 93–86 substituted ''1970 through 1976'' for ''1970, 1971, and 1972''.

EFFECTIVE DATE

Section 601 of Pub. L. 91–524 provided that this section is effective beginning with the 1971 crop of upland cotton.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

§ 1343. Referendum

Not later than December 15 following the issuance of the marketing quota proclamation provided for in section 1342 of this title, the Secretary shall conduct a referendum, by secret ballot, of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for cotton for the marketing year beginning August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.

(Feb. 16, 1938, ch. 30, title III, § 343, 52 Stat. 56; Apr. 7, 1938, ch. 107, § 8, 52 Stat. 203; July 26, 1939, ch. 376, 53 Stat. 1125; July 3, 1948, ch. 827, title II, § 207(c), 62 Stat. 1257; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, § 415(e), 63 Stat. 1058; Nov. 13, 1981, Pub. L. 97–77, § 2(c), 95 Stat. 1069; Nov. 15, 1985, Pub. L. 99–157, § 4, 99 Stat. 818.)

CODIFICATION

Provision that if marketing quotas were proclaimed for the 1950 crop, farmers eligible to vote in the referendum with respect to such crop were to be those farmers who had produced cotton in the 1948 calendar year was omitted from the Code.

AMENDMENTS

1985—Pub. L. 99–157 amended last sentence generally, substituting ''August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress'' for ''August 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) January 1, 1982''.

1981—Pub. L. 97–77 inserted provision that the referendum with respect to the national marketing quota for cotton for the marketing year beginning Aug. 1, 1982, be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) Jan. 1, 1982.

1949—Act Aug. 29, 1949, amended section generally by providing for a secret referendum. Former provisions of this section are now covered by section 1342 of this title.

Subsec. (a). Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948.

1948—Subsec. (a). Act July 3, 1948, required Secretary to take imports into consideration in determining acreage allotments for purposes of marketing quotas.

1939—Subsec. (b). Act July 26, 1939, inserted last sentence.

1938—Subsec. (c). Act Apr. 7, 1938, substituted ''for any year'' for ''for 1938 and 1939''.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

§ 1344. Apportionment of national acreage allotments

(a) Basis

Whenever a national marketing quota is proclaimed under section 1342 of this title, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be produced in the next calendar year. The national acreage allotment for cotton shall be that acreage, based upon the national average yield per acre of cotton for the four years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to make available from such crop an amount of cotton equal to the national marketing quota.

(b) Apportionment among States for year 1953 and subsequent years; adjustment; national acreage reserve

The national acreage allotment for cotton for 1953 and subsequent years shall be apportioned to the States on the basis of the acreage planted to cotton (including the acreage regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the five calendar years immediately pre-

ceding the calendar year in which the national marketing quota is proclaimed, with adjustments for abnormal weather conditions during such period: *Provided*, That there is established a national acreage reserve consisting of three hundred and ten thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres). For the 1960 and succeeding crops of cotton, the needs of States (other than Nevada) for such additional acreage for such purpose may be estimated by the Secretary, after taking into consideration such needs as determined or estimated for the preceding crop of cotton and the size of the national acreage allotment for such crop. The additional acreage so apportioned to the State shall be apportioned to the counties on the basis of the needs of the counties for such additional acreage for such purpose, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing provisions and under the last proviso in subsection (e) of this section shall be determined or estimated as though allotments were first computed without regard to subsection (f)(1) of this section.

(c) Apportionment among States for years 1950 and 1951; computation and adjustment

The national acreage allotments for cotton for the years 1950 and 1951 shall be apportioned to the States on the basis of a national acreage allotment base of twenty-two million five hundred thousand acres, computed and adjusted as follows:

(1) The average of the planted acreages (including acreage regarded as planted under the provisions of Public Law 12, Seventy-ninth Congress) in the States for the years 1945, 1946, 1947, and 1948 shall constitute the national base; except that in the case of any State having a 1948 planted cotton acreage of over one million acres and less than 50 per centum of the 1943 allotment, the average of the acreage planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) for the years 1944, 1945, 1946, 1947, and 1948 shall constitute the base for such State and shall be included in computing the national base; to this is to be added (A) the estimated additional acreage for each State required for small-farm allotments under subsection (f)(1) of this section; (B) the acreage required as a result of the State adjustment provisions of paragraph (2) of this subsection; (C) the additional acreage required to determine a total national allotment base of twenty-two million five hundred thousand acres, which additional acreage shall be distributed on a proportionate basis among States receiving no adjustment under paragraph (2) of this subsection.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the acreage allotment base for 1950 and 1951 for any State (on the basis of a national acreage allotment base of twenty-two million five hundred thousand acres) shall not be less than the larger of (1) 95 per centum of the average acreage actually planted to cotton in the State during the years 1947 and 1948, or (2) 85 per centum of the acreage planted to cotton in the State in 1948.

(3) If the national acreage allotment for 1950 or 1951 is more or less than twenty-two million five hundred thousand acres, horizontal adjustments shall be made percentagewise by States so as to reflect the ratio of the national acreage allotment for 1950 and 1951 to twenty-two million five hundred thousand acres.

(d) Apportionment for year 1952; adjustment

The national acreage allotment for cotton for 1952 shall be apportioned to States on the basis of the acreage planted to cotton (including the acreage regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the years 1946, 1947, 1948, and 1950, with adjustments for abnormal weather conditions during such period.

(e) Apportionment among counties; reservation of acreage; additional acreage for establishing minimum farm allotments

The State acreage allotment for cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsections (b), (c), and (d) of this section: *Provided*, That the State committee may reserve not to exceed 10 per centum of its State acreage allotment (15 per centum if the State's 1948 planted acreage was in excess of one million acres and less than half its 1943 allotment) which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship: *Provided further*, That if the additional acreage allocated to a State under the proviso in subsection (b) of this section is less than the requirements as determined or estimated by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1) of this section, the acreage reserved under this subsection shall not be less than the smaller of (1) the remaining acreage so determined or estimated to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which is required to be reserved under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allot-

ment determined without regard to such additional acreages).

(f) Apportionment among farms

The county acreage allotment, less not to exceed the percentage provided for in paragraph 3 of this subsection, shall be apportioned to farms on which cotton has been planted (or regarded as having been planted under the provisions of Public Law 12, Seventy-ninth Congress) in any one of the three years immediately preceding the year for which such allotment is determined on the following basis:

(1) Insofar as such acreage is available, there shall be allotted the smaller of the following: (A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop.

(2) The remainder shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county or administrative area) of the acreage, during the preceding year, on the farm which is tilled annually or in regular rotation, excluding from such acreages the acres devoted to the production of sugarcane for sugar; sugar beets for sugar; wheat, tobacco, or rice for market; peanuts picked and threshed; wheat or rice for feeding to livestock for market; or lands determined to be devoted primarily to orchards or vineyards, and nonirrigated lands in irrigated areas: *Provided, however*, That if a farm would be allotted under this paragraph an acreage together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection in excess of the largest acreage planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) to cotton during any of the preceding three years, the acreage allotment for such farm shall not exceed such largest acreage so planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) in any such year.

(3) The county committee may reserve not in excess of 15 per centum of the county allotment (15 per centum if the State's 1948 planted cotton acreage was in excess of one million acres and less than half its 1943 allotment) which, in addition to the acreage made available under the proviso in subsection (e) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm acreage allotments established under paragraphs (1) and (2) of this subsection so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship: *Provided*, That not less than 20 per centum of the acreage reserved under this subsection shall, to the extent required, be allotted, upon such basis as the Secretary deems fair and reasonable to farms (other than farms to which an allotment has been made under paragraph (1)(B) of this subsection), if any, to which an allotment of not exceeding fifteen acres may be made under other provisions of this subsection.

(4) Any part of the acreage allotted for 1950 to individual farms in any county under the provisions of this section which will not be planted to cotton and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiving allotments to the extent necessary to provide such farms with the allotments authorized under paragraph (5) of this subsection. If any acreage remains after providing such allotments, it may be apportioned in amounts determined by the county committee to be fair and reasonable to other farms in the same county receiving allotments which the county committee determines are inadequate and not representative in view of their past production of cotton and to new farms in such county. No allotment shall be made, or increased, by reason of this paragraph to an acreage in excess of 40 per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. Any transfer of allotment under this paragraph shall not operate to reduce the allotment for any subsequent year for the farm from which acreage is transferred, except in accordance with paragraph (1)(B) and the proviso in paragraph (2) of this subsection: *Provided*, That any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm and may be reapportioned in the manner set forth above. In any subsequent year, unless hereafter otherwise provided by law, acreage surrendered under this paragraph and reallocated pursuant to applications filed in accordance with the provisions of paragraph (5) of this section shall be credited to the State and county in determining acreage allotments.

(5) Notwithstanding any other provision of law and without reducing any farm acreage allotment determined pursuant to the foregoing provisions of this subsection, each farm acreage allotment for 1950 shall be increased by such amount as may be necessary to provide an allotment equal to the larger of 65 per centum of the average acreage planted to cotton (or regarded as planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) on the farm in 1946, 1947, and 1948, or 45 per centum of the highest acreage planted to cotton (or regarded as planted to cotton under Public Law 12, Seventy-ninth Congress) on the farm in any one of such three years; but no such allotment shall be increased by reason of this provision to an acreage in excess of 40

per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. An increase in any 1950 farm acreage allotment shall be made pursuant to this paragraph only upon application in writing by the owner or operator of the farm within such reasonable period of time (in no event less than fifteen days) as may be prescribed by the Secretary. The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota. The additional acreage authorized by this paragraph shall not be taken into account in establishing future State, county, and farm acreage allotments.

(6) Notwithstanding the provisions of paragraph (2) of the subsection, if the county committee recommends such action and the Secretary determines that such action will result in a more equitable distribution of the county allotment among farms in the county, the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined, adjusted as may be necessary for abnormal conditions affecting plantings during such three-year period: *Provided*, That the county committee may in its discretion limit any farm acreage allotment established under the provisions of this paragraph for any year to an acreage not in excess of 50 per centum of the cropland on the farm, as determined pursuant to the provisions of paragraph (2) of this subsection: *Provided further*, That any part of the county acreage allotment not apportioned under this paragraph by reason of the initial application of such 50 per centum limitation shall be added to the county acreage reserve under paragraph (3) of this subsection and shall be available for the purposes specified therein. If the county acreage allotment is apportioned among the farms of the county in accordance with the provisions of this paragraph, the acreage reserved under paragraph (3) of this subsection may be used to make adjustments so as to establish allotments which are fair and reasonable to farms receiving allotments under this paragraph in relation to the factors set forth in paragraph (3) of this subsection.

(7)(A) In the event that any farm acreage allotment is less than that prescribed by paragraph (1) of this subsection, such acreage allotment shall be increased to the acreage prescribed by said paragraph (1). The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota.

(B) Notwithstanding any other provision of law—

(i) the acreage by which any farm acreage allotment for 1959 or any subsequent crop established under paragraph (1) of this subsection exceeds the acreage which would have been allotted to such farm if its allotment had been computed on the basis of the same percentage factor applied to other farms in the county under paragraph (2), (6), or (8) of this subsection shall not be taken into account in establishing the acreage allotment for such farm for any crop for which acreage is allotted to such farm under paragraph (2), (6), or (8) of this subsection; and acreage shall be allotted under paragraph (2), (6), or (8) of this subsection to farms which did not receive 1958 crop allotments in excess of ten acres if and only if the Secretary determines (after considering the allotments to other farms in the county for such crop compared with their 1958 allotments and other relevant factors) that equity and justice require the allotment of additional acreage to such farm under paragraph (2), (6), or (8) of this subsection,

(ii) the acreage by which any county acreage allotment for 1959 or any subsequent crop is increased from the national or State reserve on the basis of its needs for additional acreage for establishing minimum farm allotments shall not be taken into account in establishing future county acreage allotments, and

(iii) the additional acreage allotted pursuant to subparagraph (A) of this paragraph (7) shall not be taken into account in establishing future State, county, or farm acreage allotments.

(8) Notwithstanding the foregoing provisions of paragraphs (2) and (6) of this subsection, the Secretary shall, if allotments were in effect the preceding year, provide for the county acreage allotment for the 1959 and succeeding crops of cotton, less the acreage reserved under paragraph (3) of this subsection, to be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the farm acreage allotment for the year immediately preceding the year for which such apportionment is made, adjusted as may be necessary (i) for any change in the acreage of cropland available for the production of cotton, or (ii) to meet the requirements of any provision (other than those contained in paragraphs (2) and (6)) with respect to the counting of acreage for history purposes: *Provided*, That, beginning with allotments established for the 1961 crop of cotton, if the acreage actually planted (or regarded as planted under the Soil Bank Act, the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.], and the release and reapportionment provisions of sub-

section (m) (2) of this section) to cotton on the farm in the preceding year was less than 75 per centum of the farm allotment for such year or, in the case of a farm which qualified for price support on the crop produced in such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for such year, whichever is smaller, in lieu of using such allotment as the farm base as provided in this paragraph, the base shall be the average of (1) the cotton acreage for the farm for the preceding year as determined for purposes of this proviso and (2) the allotment established for the farm pursuant to the provisions of this subsection for such preceding year; and the 1958 allotment used for establishing the minimum farm allotment under paragraph (1) of this subsection shall be adjusted to the average acreage so determined. The base for a farm shall not be adjusted as provided in this paragraph if the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond the control of producers on the farm. The Secretary shall establish limitations to prevent allocations of allotment to farms not affected by the foregoing proviso, which would be excessive on the basis of the cropland, past cotton acreage, allotments for other commodities, and good soil conservation practices on such farms.

(g) Law and conditions governing establishment of acreage allotments and yields

Notwithstanding the foregoing provisions of this section—

(1) State, county, and farm acreage allotments and yields for cotton shall be established in conformity with section 1344a of this title.

(2) In apportioning the county allotment among the farms within the county, the Secretary, through the local committees, shall take into consideration different conditions within separate administrative areas within a county if any exist, including types, kinds, and productivity of the soil so as to prevent discrimination among the administrative areas of the county.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 996

(i) Excess planting; old and new farm allotment

Notwithstanding any other provision of this chapter, any acreage planted to cotton in excess of the farm acreage allotment shall not be taken into account in establishing State, county, and farm acreage allotments. Notwithstanding any other provision of this chapter, beginning with the 1960 crop the planting of cotton on a farm in any of the immediately preceding three years that allotments were in effect but no allotment was established for such farm for any year of such three-year period shall not make the farm eligible for an allotment as an old farm under subsection (f) of this section: *Provided, however*, That by reason of such planting the farm need not be considered as ineligible for a new farm allotment under subsection (f)(3) of this section.

(j) Availability of records for inspection

Notwithstanding any other provision of this chapter, State and county committees shall make available for inspection by owners or operators of farms receiving cotton acreage allotments all records pertaining to cotton acreage allotments and marketing quotas.

(k) Minimum allotments to States

Notwithstanding any other provision of this section except subsection (g)(1) of this section, there shall be allotted to each State for which an allotment is made under this section not less than the smaller of (A) four thousand acres or (B) the highest acreage planted to cotton in any one of the three calendar years immediately preceding the year for which the allotment is made.

(*l*) Administration of law governing war crops

Notwithstanding any other provision of law, the Secretary, in administering the provisions of Public Law 12, Seventy-ninth Congress, as it relates to war crops, shall carry out the provisions of such Act in the following manner:

(i) A survey shall be conducted of every farm which had a 1942 cotton acreage allotment, and of such other farms as the Secretary considers necessary in the administration of Public Law 12. This survey shall obtain for each farm the most accurate information possible on (a) the total acreage in cultivation, and (b) the acreage of individual crops planted on each farm in the years 1941, 1945, 1946, and 1947.

(ii) An eligible farm for war-crop credit shall be a farm on which (a) the cotton acreage on the farm in 1945, 1946, or 1947, was reduced below the cotton acreage planted on the farm in 1941; (b) the war-crop acreage on the farm in 1945, 1946, or 1947, was increased above the war-crop acreage on the farm in 1941; and (c) the farm had a cotton acreage allotment in 1942.

(iii) A farm shall be regarded as having planted cotton (in addition to the actual acreage planted to cotton) to the extent of the lesser of (a) the reduction in cotton acreage for each of the years 1945, 1946, and 1947, below the acreage planted to cotton in 1941, or (b) the increase in war crops for each of the years 1945, 1946, and 1947, above that planted to such war crops in 1941. However, the county committee may be given the discretion to adjust such war-crop credit when the county committee determines that the reduction in cotton acreage was not related to an increase in war crops, but the adjustment shall be made only after consultation with the producer.

(iv) The Secretary, using the best information obtainable, and working with and through the State and county committees, shall use whatever means necessary to make an accurate determination of the credits due each individual farm, under Public Law 12.

(v) The total of the war-crop credits due the individual farms in each county shall be credited to the county and the total of the war-crop credits due all of the counties in a State shall be credited to the State.

(vi) The acreage credited to States, counties, and farms for the years 1945, 1946, or 1947, because of war crops, shall be taken into full account in the determination and distribution of

cotton acreage allotments on a national, State, county, and farm basis.

(m) Acreage allotments, 1954; increases; apportionments; limitations; unallotted farm acreage; reapportionment of surrendered acreage; extra long staple cotton; reserve acreage

Notwithstanding any other provision of law—

(1) The national acreage allotment established under subsection (a) of this section for the 1954 crop of cotton shall be increased to twenty-one million acres and apportioned to the States in the same manner in which the national acreage allotment heretofore established for 1954 was apportioned to the States. In addition to such increased national acreage allotment, and in order to provide equitable adjustments in 1954 farm acreage allotments, (A) three hundred and fifteen thousand additional acres shall be prorated as follows: one-half to the States of Arizona, California, and New Mexico, and one-half to the other States (excluding those which receive a minimum allotment under subsection (k) of this section), the proration of each half being made to the States participating therein on the basis of their respective shares of the increased national acreage allotment, and (B) such additional acreage shall be added as may be required to provide each State a total allotment under subsection (b) of this section and the provisions of this paragraph of not less than 66 per centum of the acreage planted to cotton in the State in 1952. The additional acreage made available to States under clause (B) of the preceding sentence shall not be taken into account in establishing future State acreage allotments. The additional acreage made available to States under the provisions of this paragraph shall be apportioned to counties on the basis of their respective shares of the State acreage allotment heretofore apportioned pursuant to subsection (e) of this section, and the additional acreage shall be apportioned to farms pursuant to the provisions of subsection (f) of this section: *Provided*, That, if the county committee determines that such action will result in a more equitable distribution of the additional county allotment among farms in the county, the additional acreage shall be apportioned by the county committee to farms so as to provide each farm with an allotment equal to the larger of 65 per centum of the average acreage planted to cotton on the farm in 1951, 1952, and 1953 (as determined by the county committee in establishing allotments under subsection (f) of this section) or 40 per centum of the highest acreage planted to cotton on the farm in any one of such three years as so determined: *Provided*, That the State committee in each State shall limit such increase based on the system of farming, soil, crop-rotation practices, and other physical factors affecting production in such State, to an acreage not in excess of 50 per centum of the cropland on the farm, as determined under regulations heretofore prescribed by the Secretary. If the additional acreage is insufficient to meet the total of the farm increases so computed, such farm increases shall be reduced pro rata to the additional acreage available to the county; if the additional acreage available to the county is in excess of the total of the farm increases so computed the acreage remaining after making such increases shall be allotted to farms pursuant to the provisions of subsection (f)(3) of this section. Notwithstanding the foregoing provisions of this paragraph, if the State committee determines that such action will result in a more equitable distribution of the additional acreage made available to the State under this paragraph it shall apportion such additional allotment directly to farms so as to provide each farm with an allotment equal to the larger of 65 per centum of the average acreage planted to cotton on the farm in 1951, 1952, and 1953 (as determined by the county committee in establishing allotments under subsection (f) of this section) or 40 per centum of the highest acreage planted to cotton on the farm in any one of such three years as so determined: *Provided*, That the State committee in each State shall limit such increase based on the system of farming, soil, crop-rotation practices, and other physical factors affecting production in such State, to an acreage not in excess of 50 per centum of the cropland on the farm, as determined under regulations heretofore prescribed by the Secretary: *Provided*, That if the State total of the farm increases so computed exceeds the additional acreage made available to the State under this paragraph, such farm increases shall be reduced pro rata to the additional acreage available to the State. Any acreage unallotted to farms because of the limitations contained in the preceding sentence shall be apportioned by the State committee to counties on the basis of past acreages planted to cotton and shall be used by county committees for adjustments in farm allotments on the basis of one or more of the following: The past acreage of cotton on the farm, the percentage of cropland heretofore determined under subsection (f)(2) of this section, and the factors enumerated in subsection (f)(3) of this section. Before apportioning such unallotted acreage to counties as provided in the foregoing sentence, the State committee may, if it determines that such action is required to provide equitable allotments within the State, apportion such unallotted acreage directly to farms to the extent required to provide each farm with the minimum allotment described in subsection (f)(1) of this section. Any part of the county allotment heretofore established for the 1954 crop which was not apportioned to farms because of the limitation contained in the proviso in subsection (f)(2) of this section shall be available to the State committee and used as provided above for apportionment of unallotted acreage to farms. The provisions of this subsection, except paragraph (2) of this subsection, shall not apply to extra long staple cotton covered by section 1347 of this title.

(2) Any part of any farm cotton acreage allotment on which cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other

farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of cotton land, labor, equipment available for the production of cotton, crop rotation practices, and soil and other physical facilities affecting the production of cotton. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (e) of this section. Any allotment released under this provision shall be regarded for the purposes of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period: *Provided*, That notwithstanding any other provisions of law, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage released under this paragraph shall be credited to the State in determining future allotments. The provisions of this paragraph shall apply also to extra long staple cotton covered by section 1347 of this title.

(3) Notwithstanding any other provision of this section or other provision of law, the acreage allotted to any State for 1954 under the provisions of subsection (b) of this section and the provisions of paragraph (1) of this subsection which is less than one hundred thousand acres but more than thirty thousand acres shall be increased by an acreage equal to 15 per centum of the acreage allotted to it prior to January 30, 1954. Such acreage shall be used by the State committee as a reserve to make equitable adjustments in 1954 farm acreage allotments on the basis of land, labor, equipment available for the production of cotton, crop-rotation practices, past acreages of cotton, soil, and other physical factors affecting the production of cotton.

(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of a natural disaster a portion of the farm cotton acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the cotton acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title: *Provided*, That, notwithstanding the provisions of subsection (m)(2) of this section, the transfer of any farm allotment under this subsection for any year shall operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, §344, 52 Stat. 57; Apr. 7, 1938, ch. 107, §9, 52 Stat. 203; May 31, 1938, ch. 292, §1, 52 Stat. 586; Mar. 13, 1939, ch. 9, 53 Stat. 512; June 22, 1939, ch. 238, §§1–3, 53 Stat. 853; Feb. 6, 1942, ch. 44, §3, 56 Stat. 52; Aug. 29, 1949, ch. 518, §1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, §419, 63 Stat. 1062; Mar. 31, 1950, ch. 81, §1, 64 Stat. 40; Jan. 30, 1954, ch. 2, §§1–3, 68 Stat. 4–6; Aug. 28, 1954, ch. 1041, title III, §310, 68 Stat. 904; May 28, 1956, ch. 327, title III, §303(a)–(d), 70 Stat. 203; June 11, 1958, Pub. L. 85–456, 72 Stat. 186; Aug. 28, 1958, Pub. L. 85–835, title I, §§103(4), 104(a)–(d), 105–107, 72 Stat. 990–992; Feb. 16, 1938, ch. 30, title III, §378(d), as added Aug. 28, 1958, Pub. L. 85–835, title V, §501, 72 Stat. 996; Aug. 18, 1959, Pub. L. 86–172, §2, 73 Stat. 393; May 20, 1961, Pub. L. 87–37, 75 Stat. 84; Apr. 27, 1962, Pub. L. 87–446, 76 Stat. 64; Apr. 26, 1963, Pub. L. 88–12, 77 Stat. 13; Apr. 11, 1964, Pub. L. 88–297, title I, §106(3), (8), 78 Stat. 177; Apr. 4, 1996, Pub. L. 104–127, title III, §336(b)(2)(A), 110 Stat. 1006.)

REFERENCES IN TEXT

Public Law 12, Seventy-ninth Congress, referred to in subsecs. (b), (c), (d), (f), (*l*), is act Feb. 28, 1945, ch. 15, 59 Stat. 9, which related to Emergency Farm Acreage Allotments. See note below. For complete classification of this Act to the Code, see Tables.

The Soil Bank Act, referred to in subsec. (f)(8), is act May 28, 1956, ch. 327, 70 Stat. 188, as amended, which was classified to subchapters I to III of chapter 45 (§1801 et seq.) of this title and was repealed by Pub. L. 89–321, title VI, §601, Nov. 3, 1965, 79 Stat. 1206. For complete classification of this Act to the Code prior to its repeal, see Tables.

The Food Security Act of 1985, referred to in subsec. (f)(8), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§3839aa et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

Section 1347 of this title, referred to in subsec. (m)(1), (2), was repealed by Pub. L. 98–88, §2, Aug. 26, 1983, 97 Stat. 494.

AMENDMENTS

1996—Subsec. (f)(8). Pub. L. 104–127 substituted ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985'' for ''Great Plains program''.

1964—Subsec. (f)(8). Pub. L. 88–297, §106(3), inserted ''or, in the case of a farm which qualified for price support on the crop produced in such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for such year, whichever is smaller'' after ''75 per centum of the farm allotment for such year'' to protect the farm base of any farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

Subsec. (n). Pub. L. 88–297, §106(8), extended the transfer provisions to natural disasters occurring in any year instead of only during 1963.

1963—Subsec. (n). Pub. L. 88–12 substituted ''portion of the 1963'' for ''substantial portion of the 1962'', and inserted proviso ''that notwithstanding subsection (m)(2) of this section, transfers under this subsection for 1963 makes the farm from which the allotment was transferred eligible for an allotment as having cotton during the three-year period''.

1962—Subsec. (n). Pub. L. 87–466 substituted ''1962'' for ''1961''.

1961—Subsec. (n). Pub. L. 87–37 substituted ''1961'' for ''1958'', and ''Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title'' for ''Acreage history credits for transferred acreage shall be governed by the provisions of subsection (m)(2) of this section pertaining to the release and reapportionment of acreage allotments. No transfer hereunder shall be made to a farm covered by a 1958 acreage reserve contract for cotton.''

1959—Subsec. (f)(8). Pub. L. 86–172, § 2(1), inserted proviso for determination of base beginning with allotments established for the 1961 crop of cotton, and inserted provisions prohibiting the adjustment of the base for a farm where the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond control of producers on the farm, and requiring the Secretary to establish limitations to prevent allocations of allotment to farms not affected by proviso.

Subsec. (g)(3). Pub. L. 86–172, § 2(2), repealed par. (3) which provided that for any farm on which the acreage planted to cotton in any year was less than the farm acreage allotment for such year by not more than the larger of 10 per centum of the allotment or one acre, an acreage equal to the farm acreage allotment should be deemed to be the acreage planted to cotton on such farm, and the additional acreage added to the cotton acreage history for the farm should be added to the cotton acreage history for the county and State.

Subsec. (i). Pub. L. 86–172, § 2(3), inserted provisions respecting eligibility for old and new farm allotment.

Subsec. (m)(2). Pub. L. 86–172, § 2(4), struck out ''; but no such acreage shall be surrendered to the State committee so long as any farmer receiving a cotton acreage allotment in such county desires additional cotton acreage'' after ''subsection (e) of this section'' and substituted ''Any allotment released under this provision shall be regarded for the purpose of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred'' for ''Any allotment transferred under this provision shall be regarded for the purposes of subsection (f) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred'' and ''Acreage released under this paragraph shall be credited to the State in determining future allotments'' for ''Acreage surrendered, reapportioned under this paragraph, and planted shall be credited to the State and county in determining future acreage allotments''.

1958—Subsec. (a). Pub. L. 85–835, § 103(4), substituted ''four'' for ''five'' in second sentence.

Subsec. (b). Pub. L. 85–835, § 104(a), established a national acreage reserve of 310,000 acres in addition to the national acreage allotment, provided that apportionments of additional acreage shall not be taken into account in establishing future State allotments, and inserted provisions for determination of needs for additional acreage.

Subsec. (e). Pub. L. 85–835, § 104(b), inserted proviso relating to additional acreage allocated to a State.

Subsec. (f)(1). Pub. L. 85–835, § 104(c), substituted ''(A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop'' for ''(A) four acres; or (B) the highest number of acres planted to cotton in any year of such three-year period''.

Subsec. (f)(6). Pub. L. 85–835, § 104(d), substituted ''provisions of paragraph (2) of this subsection'' for ''foregoing provisions of this subsection except paragraph (3) of this subsection'', ''remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted'' for ''county acreage allotment, less the acreage reserved under paragraph (3) of this subsection, shall be apportioned'', and inserted provisions requiring the allotments to be a prescribed percentage of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined.

Subsec. (f)(7). Pub. L. 85–835, § 105, added par. (7).

Subsec. (f)(8). Pub. L. 85–835, § 106, added par. (8).

Subsec. (h). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85–835, § 501, repealed subsec. (h) which related to apportionment by county committee and reallocation of flood lands.

Subsec. (m)(2). Pub. L. 85–835, § 107, provided that any cotton acreage which is surrendered shall be retained in the county and not surrendered to the State committee so long as any farmer in the county desires additional cotton acreage.

Subsec. (n). Pub. L. 85–456 added subsec. (n).

1956—Subsec. (b). Act May 28, 1956, § 303(a), temporarily inserted ''*Provided*, That there is hereby established a national acreage reserve consisting of one hundred thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres), and the additional acreage so apportioned to the State shall be apportioned to the counties on the same basis and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing proviso and under the last proviso in subsection (e) of this section shall be determined as though allotments were first computed without regard to subsection (f)(1) of this section.'' See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (e). Act May 28, 1956, § 303(b), temporarily inserted ''*Provided further*, That if the additional acreage allocated to a State under the proviso in subsection (b) of this section is less than the requirements as determined by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1) of this section, the acreage reserved by the State committee under this subsection shall not be less than the smaller of (1) the remaining acreage so determined to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which the State committee is required to reserve under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages).'' See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (f)(1). Act May 28, 1956, § 303(c), temporarily inserted ''Insofar as such acreage is available,'', substituted ''four acres'' for ''five acres'', and struck out ''(or regarded as planted under Public Law 12, Seventy-ninth Congress)'' after ''planted''. See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (f)(6). Act May 28, 1956, § 303(d), temporarily substituted ''provisions of paragraph (2) of this subsection'' for ''foregoing provisions of this subsection except paragraph (3) of this subsection'' and ''the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined,'' for ''the county acreage allotment, less the acreage reserved under paragraph (3) of this subsection, shall be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the acreage planted to cotton on the farm during such three-year period,'' and struck out ''(A) apportion such county allotment by first establishing minimum allotments in accordance with paragraph (1) of this subsection and by allotting the remaining acreage to farms other than those receiving an allotment under paragraph (1)(B) in accordance with the foregoing provisions of this paragraph and (B)'' after ''committee may in its discretion''. See Effective and Termination Dates of 1956 Amendment note below.

1954—Subsec. (e). Act Jan. 30, 1954, § 3(a), inserted at end ''or to correct inequities in farm allotments and to prevent hardship''.

Subsec. (f)(3). Act Jan. 30, 1954, § 3(b), inserted '', or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship''.

Subsec. (f)(6). Act Aug. 28, 1954, § 310(a), inserted proviso to first sentence.

Act Jan. 30, 1954, § 3(c), added par. (6).

Subsec. (h). Act Jan. 30, 1954, § 2, inserted sentence relating to reallocation of flood lands.

Subsec. (m). Act Jan. 30, 1954, § 1, added subsec. (m).

Subsec. (m)(2). Act Aug. 28, 1954, § 310(b), struck out ''1954 or 1955'' wherever appearing.

1950—Subsec. (f)(4), (5). Act Mar. 31, 1950, added pars. (4) and (5).

1949—Subsec. (f)(3). Act Oct. 31, 1949, increased reserve percentage of county allotment from 10 to 15 in first sentence and decreased percentage of acreage reserved from 30 to 20 in proviso.

Act Aug. 29, 1949, amended section generally to provide for a national acreage base to be used in apportioning to the States the actual national acreage allotment, and to make the national acreage allotment base and the outlined division among the States such as will complement the minimum national marketing quota provisions and thus permit a gradual reduction of any excessive carryover.

1942—Subsec. (j). Act Feb. 6, 1942, added subsec. (j).

1939—Subsec. (e)(1). Act June 22, 1939, § 1, substituted ''For 1938, 1939, and any subsequent year'' for ''For 1938 and 1939''.

Subsec. (g). Act June 22, 1939, § 2, substituted ''For 1938, 1939, and each subsequent year'' for ''For each of the years 1938 and 1939''.

Subsec. (h). Act June 22, 1939, § 3, substituted ''for 1938, 1939, and each subsequent year'' for ''For each of the years 1938 and 1939''.

Act Mar. 13, 1939, substituted ''for any crop year'' for ''for the crop year 1938'' and struck out ''for 1938'' from first proviso.

1938—Subsec. (b). Act Apr. 7, 1938, § 9(a), amended second sentence.

Subsec. (d)(3). Act Apr. 7, 1938, § 9(b), inserted ''sugarcane for sugar,'' after ''excluding from such acreage the acres devoted to the production of'' in second sentence, and ''wheat or rice'' after ''rice for market or,''.

Subsec. (e). Act Apr. 7, 1938, § 9(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Act Apr. 7, 1938, § 9(d), added subsec. (g).

Subsec. (h). Act May 31, 1938, among other changes, inserted ''and for the crop year 1938 any part of the acreage allotted to individual farms in the State which it is determined, in accordance with regulations prescribed by the Secretary, will not be planted to cotton in the year for which the allotment is made, shall be deducted from the allotments to such farms and may be apportioned, in amounts determined by the Secretary to be fair and reasonable, preference being given to farms in the same county receiving allotments which the Secretary determines are inadequate and not representative in view of the past production of cotton and the acreage diverted from the production of cotton on such farms under the agricultural conservation program in the immediately preceding year: *Provided*, That any such transfer of allotment for 1938 shall not affect apportionment for any subsequent year'' after ''Secretary''.

Act Apr. 7, 1938, § 9(d), added subsec. (h).

Subsec. (i). Act Apr. 7, 1938, § 9(d), added subsec. (i).

EFFECTIVE DATE OF 1958 AMENDMENT

Section 104(e) of Pub. L. 85–835 provided that: ''The amendments made by this section [amending this section] shall be effective beginning with the 1959 crop.''

Section 105 of Pub. L. 85–835 provided that the amendment made by that section is effective beginning with 1959 crop.

EFFECTIVE AND TERMINATION DATES OF 1956 AMENDMENT

Section 303(e) of act May 28, 1956, provided that: ''The amendments made by this section [amending this section] shall be effective only with respect to 1957 and 1958 crops. For the 1956 crop, an acreage in each State equal to the acreage allotted in such State which the Secretary determines will not be planted, placed in the acreage reserve or conservation reserve, or considered as planted under section 377 of the Agricultural Adjustment Act of 1938, as amended [section 1377 of this title], may be apportioned by the Secretary among farms in such State having allotments of less than the smaller of the following: (1) four acres, or (2) the highest number of acres planted to cotton in any of the years 1953, 1954, and 1955.''

EFFECTIVE DATE OF 1954 AMENDMENT

Section 3 of act Jan. 30, 1954, provided that the amendments made by that section are effective beginning with 1955 crop. The amendments made by sections 1 and 2 of such act took effect on the date of approval of such act, Jan. 30, 1954.

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note set out under section 1378 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941, and which emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

COUNTY COMMITTEE ALLOTMENT

Act Mar. 13, 1939, in addition to amending former subsec. (h), contained the following: "*Provided*, That hereafter such allotment of acreage in counties shall be to such farms as the County Committee of such county may designate. In making such designation the County Committee shall consider only the character and adaptability of the soil and other physical facilities affecting the production of cotton and the need of operator for an additional allotment to meet the requirement of the families engaging in the production of cotton on the farm in such year."

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1346, 1349, 1350, 1377, 1428, 1444 of this title.

§ 1344a. Exclusion of 1949 acreage in computation of future allotments

Notwithstanding the provisions of subchapter III of this chapter, or of any other law, State, county, and farm acreage allotments and yields for cotton for any year after 1949 shall be computed without regard to yields or to the acreage planted to cotton in 1949.

(Mar. 29, 1949, ch. 38, 63 Stat. 17.)

CODIFICATION

Section was not enacted as part of the Agriculture Adjustment Act of 1938 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1344 of this title.

§ 1344b. Sale, lease, or transfer of cotton acreage allotments

(a) Authority for calendar years 1966 through 1970; transfer periods

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which a cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment (excluding that part of the allotment which the Secretary determines was apportioned to the farm from the national acreage reserve) to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him; *Provided*, That the authority granted under this section may be exercised for the calendar years 1966 through 1970, but all transfers hereunder shall be for such period of years as the parties thereto may agree.

(b) Requisite conditions for transfer of acreage allotments

Transfers under this section shall be subject to the following conditions: (i) no allotment shall be transferred to a farm in another State or to a person for use in another State; (ii) no farm allotment may be sold or leased for transfer to a farm in another county unless the producers of cotton in the county from which transfer is being made have voted in a referendum within three years of the date of such transfer, by a two-thirds majority of the producers participating in such referendum, to permit the transfer of allotments to farms outside the county, which referendum, insofar as practicable, shall be held in conjunction with the marketing quota referendum for the commodity; (iii) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholder; (iv) no sale of a farm allotment shall be permitted if any sale of cotton allotment to the same farm has been made within the three immediately preceding crop years; (v) the total cotton allotment for any farm to which allotment is transferred by sale or lease shall not exceed the farm acreage allotment (excluding reapportioned acreage) established for such farm for 1965 by more than one hundred acres; (vi) no cotton in excess of the remaining acreage allotment on the farm shall be planted on any farm from which the allotment (or part of an allotment) is sold for a period of five years following such sale, nor shall any cotton in excess of the remaining acreage allotment on the farm be planted on any farm from which the allotment (or part of an allotment) is leased during the period of such lease, and the producer on such farm shall so agree as a condition precedent to the Secretary's approval of any such sale or lease; and (vii) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. Such record may be filed with such committee only during the period beginning June 1 and ending December 31.

(c) Extent of estate transferred

The transfer of an allotment shall have the effect of transferring also the acreage history, farm base, and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided*, That in the case of a transfer by lease, the amount of the allotment shall be considered for purposes of determining allotments after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) Period of ineligibility of land for new allotment

The land in the farm from which the entire cotton allotment and acreage history have been transferred shall not be eligible for a new farm cotton allotment during the five years following the year in which such transfer is made.

(e) Transfer of allotments established under minimum allotment provisions

The transfer of a portion of a farm allotment which was established under minimum farm allotment provisions for cotton or which operates to bring the farm within the minimum farm allotment provision for cotton shall cause the minimum farm allotment or base to be reduced to an amount equal to the allotment remaining on the farm after such transfer.

(f) Rules and regulations

The Secretary shall prescribe regulations for the administration of this section, which shall include provisions for adjusting the size of the allotment transferred if the farm to which the allotment is transferred has a substantially higher yield per acre and such other terms and conditions as he deems necessary.

(g) Adjustment upon transfer of land covered by conservation reserve contract

If the sale or lease occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, cropland adjustment agreement, or other similar land utilization agreement, the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the allotment is transferred.

(h) Exchange of cotton acreage allotments for rice acreage allotments

The Secretary shall by regulations authorize the exchange between farms in the same county, or between farms in adjoining counties within a State, of cotton acreage allotment for rice acreage allotment. Any such exchange shall be made on the basis of application filed with the county committee by the owners and operators of the farms, and the transfer of allotment between the farms shall include transfer of the related acreage history for the commodity. The exchange shall be acre for acre or on such other basis as the Secretary determines is fair and reasonable, taking into consideration the comparative productivity of the soil for the farms involved and other relevant factors. No farm from which the entire cotton or rice allotment has been transferred shall be eligible for an allotment of cotton or rice as a new farm within a period of five crop years after the date of such exchange.

(i) Applicability to cotton restricted to upland cotton

The provisions of this section relating to cotton shall apply only to upland cotton.

(Feb. 16, 1938, ch. 30, title III, § 344a, as added Nov. 3, 1965, Pub. L. 89–321, title IV, § 405, 79 Stat. 1197; amended Oct. 11, 1968, Pub. L. 90–559, § 1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title VI, § 601(3)(1), 84 Stat. 1372; Aug. 10, 1973, Pub. L. 93–86, § 1(19)(C), (D), 87 Stat. 233.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86 struck out ''for which a farm base acreage allotment is established (other than pursuant to section 1350(e)(1)(A) of this title)'' after ''to any other owner or operator of a farm'' and substituted ''1978'' for ''1974''.

1970—Subsec. (a). Pub. L. 91–524 temporarily directed Secretary to permit certain types of transfers of all or part of farm base acreage allotments between farms in same State. See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (a). Pub. L. 90–559 provided for a one year extension, substituting ''1966 through 1970'' for ''1966, 1967, 1968, and 1969''.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(C) of Pub. L. 93–86 provided that the amendment made by that section is effective beginning with 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 601(3) of Pub. L. 91–524, as amended by section 1(19)(A) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section 601(3)(2) of Pub. L. 91–524, as amended by section 1(19)(A) of Pub. L. 93–86, provided that: ''Subdivisions (ii), (iv), (v), and (vi) of subsection (b) [of this section], the last sentence of subsection (b) [of this section] and subsections (e) and (h) [of this section] shall not be applicable to the 1971 through 1977 crops: *Provided*, That no farm allotment may be sold or leased for transfer to a farm in another county unless the Agricultural Stabilization and Conservation Committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590h(b)], for the county from which such transfers are being made (1) finds that a demand for such acreage allotments no longer exists in such county and (2) approves any transfers of allotments to farms outside such county.''

§ 1345. Farm marketing quotas; farm marketing excess

The farm marketing quota for any crop of cotton shall be the actual production of the acreage planted to cotton on the farm less the farm marketing excess. The farm marketing excess shall be the normal production of that acreage planted to cotton on the farm which is in excess of the farm acreage allotment: *Provided*, That such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary.

(Feb. 16, 1938, ch. 30, title III, § 345, 52 Stat. 58; July 3, 1948, ch. 827, title II, § 205, 62 Stat. 1256; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 674; Oct. 31, 1949, ch. 792, title IV, § 415(e), 63 Stat. 1058.)

AMENDMENTS

1949—Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948.

Act Aug. 29, 1949, stated what the farm marketing quota shall be and what the farm marketing excess shall be.

1948—Act July 3, 1948, changed conditions which must be determined by Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

PROCLAMATIONS AFFIRMED

Effect of act Apr. 7, 1938, ch. 107, 52 Stat. 202, see note set out under section 1312 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1346, 1349 of this title.

§ 1346. Penalties

(a) Whenever farm marketing quotas are in effect with respect to any crop of cotton, the producer shall be subject to a penalty on the farm marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for cotton as of June 15 of the calendar year in which such crop is produced.

(b) The farm marketing excess of cotton shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to cotton in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pursuant to the proviso in section 1345 of this title, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.

(c) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(d) Until the penalty on the farm marketing excess is paid, all cotton produced on the farm and marketed by the producer shall be subject to the penalty provided by this section and a lien on the entire crop of cotton produced on the farm shall be in effect in favor of the United States.

(e) Notwithstanding any other provision of this chapter, for the 1966 through 1970 crops of upland cotton, if the farm operator elects to forgo price support for any such crop of cotton by applying to the county committee of the county in which the farm is located for additional acreage under this subsection, he may plant an acreage not in excess of the farm acreage allotment established under section 1344 of this title plus the acreage apportioned to the farm from the national export market acreage reserve, and all cotton of such crop produced on the farm may be marketed for export free of any penalty under this section: *Provided*, That the foregoing shall be applicable only to farms which had upland cotton allotments for 1965 and are operated by the same operator as in 1965 or by his heir.

For the 1966 crop the national export market acreage reserve shall be 250,000 acres. For each subsequent crop—

If the carryover at the end of the marketing year for the preceding crop is estimated to be less than the carryover at the beginning of such marketing year by—	The national export market acreage reserve shall be—
At least 1,000,000 bales	250,000 acres.
At least 750,000 bales, but not as much as 1,000,000 bales.	187,500 acres.
At least 500,000 bales, but not as much as 750,000 bales.	125,000 acres.
At least 250,000 bales, but not as much as 500,000 bales.	62,500 acres.
Less than 250,000 bales	None.

The national export market acreage reserve shall be apportioned to farms by the Secretary on the basis of the applications therefor. No application shall be accepted for a greater acreage than is available on the farm for the production of upland cotton. After apportionments are thus made to farms, the Secretary shall provide farm operators a reasonable time in which to cancel their applications (and agreements to forgo price support) and surrender to the Secretary through the county committee the export market acreage assigned to the farm. Acreage so surrendered shall be available for reassignment by the Secretary to other eligible farms to which export market acreage has been apportioned on the basis of the applications remaining outstanding. The operator of any farm who elects to forgo price support for any such crop under this subsection shall not be eligible for price support on cotton of such crop produced on any other farm in which he has a controlling or substantial interest as determined by the Secretary. Acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall not be taken into account in establishing future State, county, and farm acreage allotments. The operator of any farm to which export market acreage is apportioned, or the purchasers of cotton produced on such farm, shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary, providing for the exportation, without benefit of any Government cotton export subsidy and within such time as the Secretary may specify, of all cotton produced on such farm for such year. The bond

or other undertaking given pursuant to this subsection shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cotton under subsection (a) of this section. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the sum of the farm acreage allotment established under section 1344 of this title and the acreage apportioned to the farm from the national export market acreage reserve, the acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall be regarded as excess acreage for purposes of this section and section 1345 of this title. Amounts collected by the Secretary under this subsection shall be remitted to the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, § 346, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 674; Nov. 3, 1965, Pub. L. 89–321, title IV, § 401(2), 79 Stat. 1192; Oct. 11, 1968, Pub. L. 90–559, § 1(2), 82 Stat. 996.)

AMENDMENTS

1968—Subsec. (e). Pub. L. 90–559 provided for a one year extension, substituting ''1966 through 1970'' for ''1966, 1967, 1968, and 1969''.

1965—Subsec. (e). Pub. L. 89–321 added subsec. (e).

1949—Act Aug. 29, 1949, amended section generally. Former provisions of section were covered by section 1345 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

REMOVAL OF MARKETING PENALTIES ON CERTAIN LONG STAPLE COTTON

Act Jan. 9, 1951, ch. 1215, 64 Stat. 1237, provided that the marketing penalty provided in this section, shall not be applied to long staple cotton of the 1950 crop ginned on saw type gins where such action was necessary to conserve the cotton because of frost or weather damage.

CROSS REFERENCES

Agreement for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1347. Repealed. Pub. L. 98–88, § 2, Aug. 26, 1983, 97 Stat. 494

Section, acts Feb. 16, 1938, ch. 30, title III, § 347, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 675; July 17, 1952, ch. 933, § 4, 66 Stat. 759; Aug. 28, 1958, Pub. L. 85–835, title I, § 103(3), 72 Stat. 990; Sept. 21, 1959, Pub. L. 86–341, title II, § 203, 73 Stat. 611; June 30, 1960, Pub. L. 86–566, 74 Stat. 295; Aug. 11, 1968, Pub. L. 90–475, §§ 4, 6, 82 Stat. 701, 702, set out a program for long staple cotton. See section 1444(h) of this title.

EFFECTIVE DATE OF REPEAL

Section 2 of Pub. L. 98–88 provided that the repeal of this section is effective beginning with 1984 crop of extra long staple cotton.

§ 1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory

In order to maintain and expand domestic consumption of upland cotton produced in the United States and to prevent discrimination against the domestic users of such cotton, notwithstanding any other provision of law, the Commodity Credit Corporation, under such rules and regulations as the Secretary may prescribe, is authorized and directed for the period beginning with April 11, 1964 and ending July 31, 1966, to make payments through the issuance of payment-in-kind certificates to persons other than producers in such amounts and subject to such terms and conditions as the Secretary determines will eliminate inequities due to differences in the cost of raw cotton between domestic and foreign users of such cotton, including such payments as may be necessary to make raw cotton in inventory on April 11, 1964 available for consumption at prices consistent with the purposes of this section: *Provided*, That for the period beginning August 1 of the marketing year for the first crop for which price support is made available under section 1444(b) of this title, and ending July 31, 1966, such payments shall be made in an amount which will make upland cotton produced in the United States available for domestic use at a price which is not in excess of the price at which such cotton is made available for export. The Secretary may extend the period for performance of obligations incurred in connection with payments made for the period ending July 31, 1966, or may make payments on raw cotton in inventory on July 31, 1966, at the rate in effect on such date. No payments shall be made hereunder with respect to 1966 crop cotton.

(Feb. 16, 1938, ch. 30, title III, § 348, as added Apr. 11, 1964, Pub. L. 88–297, title I, § 101, 78 Stat. 173; amended Nov. 3, 1965, Pub. L. 89–321, title IV, § 401(1), 79 Stat. 1192.)

PRIOR PROVISIONS

A prior section 1348, acts Feb. 16, 1938, ch. 30, title III, § 348, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 675; Aug. 28, 1954, ch. 1041, title III, § 311(a), 68 Stat. 904, prohibited agricultural conservation program payments to any farmer who knowingly harvested any basic commodity in excess of his acreage allotment and was repealed by act May 23, 1955, ch. 45, 69 Stat. 65, effective with respect to 1955 and subsequent crops.

AMENDMENTS

1965—Pub. L. 89–321 authorized Secretary to extend period for performance of obligations incurred in connection with payments made for period ending July 31, 1966, or to make payments in raw cotton in inventory on July 31, 1966.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1385, 1444 of this title.

§ 1349. Export market acreage

(a) Supplementary allotments for 1964 and 1965; acreage limitation; apportionment among States and farms; "export market acreage" on any farm; farm acreage allotment for farms with export acreage; additional allotment; establishment of future allotments without regard to export acreage; exclusion of extra-long-staple cotton and farms receiving additional price support for 1964 and 1965

The acreage allotment established under the provisions of section 1344 of this title for each farm for the 1964 crop may be supplemented by the Secretary by an acreage equal to such percentage, but not more than 10 per centum, of such acreage allotment as he determines will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. For the 1965 crop, the Secretary may, after such hearing and investigation as he finds necessary, announce an export market acreage which he finds will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. Such export market acreage shall be apportioned to the States on the basis of the State acreage allotments established under section 1344 of this title and apportioned by the States to farms receiving allotments under section 1344 of this title, pursuant to regulations issued by the Secretary, after considering applications for such acreage filed with the county committee of the county in which the farm is located. The ''export market acreage'' on any farm shall be the number of acres, not exceeding the maximum export market acreage for the farm established pursuant to this subsection, by which the acreage planted to cotton on the farm exceeds the farm acreage allotment. For purposes of sections 1345 and 1374 of this title and the provisions of any law requiring compliance with a farm acreage allotment as a condition of eligibility for price support or payments under any farm program, the farm acreage allotment for farms with export market acreage shall be the sum of the farm acreage allotment established under section 1344 of this title and the maximum export market acreage. Export market acreage shall be in addition to the county, State, and National acreage allotments and shall not be taken into account in establishing future State, county, and farm acreage allotments. The provisions of this section shall not apply to extra-long-staple cotton or to any farm which receives price support under section 1444(b) of this title.

(b) Bond, other undertaking, and lieu payments for exportation without subsidy and within specified period; terms and conditions; liquidated damages; farm acreage allotment upon noncompliance with conditions; remissions to CCC for defraying costs of encouraging export sales of cotton

The producers on any farm on which there is export market acreage or the purchasers of cotton produced thereon shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary providing for the exportation, without benefit of any Government cotton export subsidy and within such period of time as the Secretary may specify, of a quantity of cotton produced on the farm equal to the average yield for the farm multiplied by the export market acreage as determined pursuant to regulations issued by the Secretary. The bond or other undertaking given pursuant to this section shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cotton under section 1346(a) of this title. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the farm acreage allotment established under the provisions of section 1344 of this title by more than the maximum export market acreage, the farm acreage allotment shall be the acreage so established under section 1344 of this title. Amounts collected by the Secretary under this section shall be remitted to the Commodity Credit Corporation and used by the Corporation to defray costs of encouraging export sales of cotton under section 1853[1] of this title.

(Feb. 16, 1938, ch. 30, title III, § 349, as added Apr. 11, 1964, Pub. L. 88–297, title I, § 106(1), 78 Stat. 175.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 1853 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–465, title IV, § 412(c), Dec. 8, 1994, 108 Stat. 4964.

PRIOR PROVISIONS

A prior section 1349, act Feb. 16, 1938, ch. 30, title III, § 349, 52 Stat. 59, was omitted by act Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670 which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title).

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1350. National base acreage allotment

(a) Establishment

The Secretary shall establish for each of the 1971 through 1977 crops of upland cotton a national base acreage allotment. Such national base acreage allotment shall be announced not later than November 15 of the calendar year preceding the year for which the national base acreage allotment is to be effective. The national base acreage allotment for any crop of cotton shall be the number of acres which the Secretary determines on the basis of the expected national yield will produce an amount of cotton equal to the estimated domestic consumption of cotton (standard bales of four hundred and eighty pounds net weight) for the marketing year beginning in the year in which the crop is to be produced, plus not to exceed 25 per centum thereof if the Secretary, taking into consideration other actions he may take under the Agricultural Act of 1970, determines that such additional amount is necessary to provide for a production which will equal the national cotton production goal, except that such national base acreage allotment shall be eleven million five hundred thousand acres for the 1971 crop and in the case of the 1972 through 1977 crops shall be in such amount as the Secretary determines necessary to maintain adequate supplies. The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

(b) Apportionment to States

The national base acreage allotment for each crop of upland cotton shall be apportioned by the Secretary to the States on the basis of the acreage planted (including acreage regarded as having been planted) to upland cotton within the farm acreage allotment or the farm base acreage allotment, whichever is in effect, during the five calendar years immediately preceding the calendar year in which the national cotton production goal is proclaimed, with adjustments for abnormal weather conditions or other natural disaster during such period.

(c) Apportionment to counties

The State base acreage allotment for each crop of upland cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsection (b) of this section: *Provided*, That the State committee may reserve not to exceed 2 per centum of its State acreage allotment which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardships.

(d) Adjustment of apportionment bases for counties

The Secretary shall adjust the apportionment base for each county as may be necessary because of transfers of allotments across county lines.

(e) Apportionment to farms

(1) The county base acreage allotment for the 1971 crop shall be apportioned to old cotton farms in the county on the basis of the domestic acreage allotment established for the farm for the 1970 crop. For the 1972 and each subsequent crop of upland cotton the county base acreage allotment shall be apportioned to old cotton farms in the county on the basis of the farm base acreage allotment established for such farm for the preceding year. The county committee may reserve not in excess of 10 per centum of the county allotment which, in addition to the acreage made available under the proviso in subsection (c) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm allotments established under this paragraph so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm allotments to correct inequities and to prevent hardships. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after November 30, 1970.

(2) If for any crop the total acreage of cotton planted on a farm is less than the farm base acreage allotment, the farm base acreage allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm base acreage allotment, but such reduction shall not exceed 20 per centum of the farm base acreage allotment for the preceding crop. If not less than 90 per centum of the base acreage allotment for the farm is planted to cotton, the farm shall be considered to have an acreage planted to cotton equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. For the

purpose of this paragraph, the Secretary shall, in the event producers of wheat or feed grains are permitted to do so, permit producers of cotton to have acreage devoted to soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate considered as devoted to the production of cotton to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the cotton or soybean program.

(3) If no acreage is planted to cotton for any three consecutive crop years on any farm which had a farm base acreage allotment for such years, such farm shall lose its base acreage allotment.

(f) Surrender of farm base acreage allotments

Effective for the 1971 through 1977 crops, any part of any farm base acreage allotment on which upland cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the farm base acreage allotment for such farm and may be reapportioned by the county committee to other farms in the same county receiving farm base acreage allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of upland cotton, land, labor, equipment available for the production of upland cotton, crop rotation practices, and soil and other physical facilities affecting the production of upland cotton. If all of the acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used to make adjustments in farm base acreage allotments for other farms in the State adversely affected by abnormal conditions affecting plantings or to correct inequities or to prevent hardship. Any farm base acreage allotment released under this provision shall be regarded for the purpose of establishing future farm base acreage allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred: *Provided*, That, notwithstanding any other provision of law, any part of any farm base acreage allotment for any crop year may be permanently released in writing to the county committee by the owner and operator of the farm and reapportioned as provided herein. Acreage released under this subsection shall be credited to the State in determining future allotments.

(g) Compliance with set-aside requirements

Any farm receiving any base acreage allotment through release and reapportionment or sale, lease, or transfer shall, as a condition to the right to receive such allotment, comply with the set-aside requirements of section 1444(e)(4) of this title applicable to such acreage as determined by the Secretary.

(h) Transfer of farm base acreage allotments not planted because of natural disaster or conditions beyond control of producer

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of drought, flood, other natural disaster, or a condition beyond the control of the producer a portion of the farm base acreage allotment in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of such cotton acreage for any farm in the county so affected to another farm in the county or in any other nearby county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of upland cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm base acreage allotment transferred under this subsection shall be regarded as planted to upland cotton on the farm and in the county and State from which transfer is made for purposes of establishing future farm, county and State allotments.

(Feb. 16, 1938, ch. 30, title III, § 350, as added Apr. 11, 1964, Pub. L. 88–297, title I, § 105, 78 Stat. 175; amended Nov. 3, 1965, Pub. L. 89–321, title IV, § 401(3), 79 Stat. 1193; Oct. 11, 1968, Pub. L. 90–559, § 1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title VI, § 601(4), 84 Stat. 1372; Aug. 10, 1973, Pub. L. 93–86, § 1(19) (A), (D)–(G), 87 Stat. 233.)

REFERENCES IN TEXT

The Agricultural Act of 1970, referred to in subsec. (a), is Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, as amended. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

PRIOR PROVISIONS

A prior section 1350, act Feb. 16, 1938, ch. 30, title III, § 350, 52 Stat. 60, was omitted by act Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670, which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title). See section 1347 of this title.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86, § 1(19)(A), (D), (E), substituted ''1971 through 1977'' for ''1971, 1972, and 1973'' and ''1972 through 1977'' for ''1972 and 1973'' and inserted requirement that the national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

Subsec. (e)(2). Pub. L. 93–86, § 1(19)(F), substituted ''soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate'' for ''soybeans, wheat or feed grains''.

Subsec. (f). Pub. L. 93–86, § 1(19)(A), substituted ''1971 through 1977'' for ''1971, 1972, and 1973''.

Subsec. (h). Pub. L. 93–86, § 1(19)(G), substituted ''to another farm in the county or in any other nearby county'' for ''to another farm in the county or in an adjoining county''.

1970—Pub. L. 91–524 designated existing provisions as subsec. (a), substituted provisions for the establishment of a national base acreage allotment covering each of the 1971, 1972, and 1973 crops of upland cotton for provisions authorizing the establishing of a national domestic allotment for the 1966 through 1970 crops of upland cotton, and added subsecs. (b) to (h).

1968—Pub. L. 90–559 provided for a one year extension, substituting ''1966 through 1970'' for ''1966, 1967, 1968, and 1969''.

1965—Pub. L. 89–321 extended domestic acreage allotment program through the 1969 crop and otherwise amended section generally to authorize establishment of a national domestic allotment for each crop year

equal to the estimated domestic consumption for the marketing year beginning in year in which crop is to be produced and to authorize determination of a farm domestic acreage allotment percentage for each year by dividing national domestic allotment by total for all States of product of State acreage allotment and the projected State yield.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(E)–(G) of Pub. L. 93–86 provided that the amendments made by that section are effective beginning with 1974 crop.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 601 of Pub. L. 91–524 provided that the amendment made by that section is effective beginning with 1971 crop.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 401(3) of Pub. L. 89–321 provided that the amendment made by that section is effective with 1966 crop.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1377, 1444 of this title.

§ 1350a. Repealed. Pub. L. 96–470, title I, § 102(e), Oct. 19, 1980, 94 Stat. 2237

Section, Pub. L. 91–524, title VI, § 609, Nov. 30, 1970, 84 Stat. 1378, required Secretary to file annually with President for transmission to Congress a complete report of programs carried out under title VI of Pub. L. 91–524.

SUBPART V—MARKETING QUOTAS—RICE

§ 1351. Omitted

CODIFICATION

Section, act Feb. 16, 1938, ch. 30, title III, § 351, 52 Stat. 60, set forth the legislative findings relating to rice marketing quotas pursuant to this subpart and was omitted in view of the repeal of the remaining sections of the subpart.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

§§ 1352 to 1356. Repealed. Pub. L. 97–98, title VI, § 601, Dec. 22, 1981, 95 Stat. 1242

Section 1352, acts Feb. 16, 1938, ch. 30, title III, § 352, 52 Stat. 60; Aug. 9, 1955, ch. 648, 69 Stat. 576; Feb. 16, 1976, Pub. L. 94–214, title I, § 101, 90 Stat. 181; Sept. 29, 1977, Pub. L. 95–113, title VII, § 701, 91 Stat. 940, provided for a national acreage allotment and allocation for 1976 through 1981 crops of rice.

Section 1353, acts Feb. 16, 1938, ch. 30, title III, § 353, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; June 16, 1950, ch. 268, §§ 1, 2, 64 Stat. 232; Apr. 30, 1955, ch. 29, 69 Stat. 45; Apr. 30, 1955, ch. 30, 69 Stat. 45; May 5, 1955, ch. 31, 69 Stat. 45; Aug. 9, 1955, ch. 652, 69 Stat. 578; May 28, 1956, ch. 327, title III, § 304, 70 Stat. 205; June 4, 1958, Pub. L. 85–443, §§ 1, 2(a), (b), 3, 72 Stat. 177; Aug. 28, 1958, Pub. L. 85–835, title III, § 301, 72 Stat. 994; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 996; Mar. 6, 1962, Pub. L. 87–412, 76 Stat. 20; Jan. 28, 1964, Pub. L. 88–261, 78 Stat. 6; Nov. 3, 1965, Pub. L. 89–321, title VIII, § 801, 79 Stat. 1212; Oct. 11, 1968, Pub. L. 90–559, § 1(8), 82 Stat. 996; Apr. 27, 1973, Pub. L. 93–27, 87 Stat. 27, related to allocation of national acreage allotment.

Section 1354, acts Feb. 16, 1938, ch. 30, title III, § 354, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; Apr. 4, 1960, Pub. L. 86–408, 74 Stat. 15, related to proclamation of marketing quotas and referendum by farmers on such quotas.

Section 1355, acts Feb. 16, 1938, ch. 30, title III, § 355, 52 Stat. 62; July 3, 1948, ch. 827, title II, § 206, 62 Stat. 1256; Oct. 31, 1949, ch. 792, title IV, §§ 415(e), 418(a), 63 Stat. 1058, 1059, related to amount of farm marketing quota.

Section 1356, acts Feb. 16, 1938, ch. 30, title III, § 356, 52 Stat. 62; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; June 4, 1958, Pub. L. 85–443, § 4, 72 Stat. 178; Dec. 14, 1967, Pub. L. 90–191, 81 Stat. 578, related to penalties for farm marketing excess when farm marketing quotas are in effect and to avoidance or postponement of penalties by storage or other disposition.

EFFECTIVE DATE OF REPEAL

Section 601 of Pub. L. 97–98 provided that the repeal of sections 1352 to 1356 of this title is effective beginning with the 1982 crop of rice.

SUBPART VI—MARKETING QUOTAS—PEANUTS

§ 1357. Legislative findings

The production, marketing, and processing of peanuts and peanut products employs a large number of persons and is of national interest. The movement of peanuts from producer to consumer is preponderantly in interstate and foreign commerce, and, owing to causes beyond their control, the farmers producing such commodity and the persons engaged in the marketing and processing thereof are unable to regulate effectively the orderly marketing of the commodity. As the quantity of peanuts marketed in the channels of interstate and foreign commerce increases above the quantity of peanuts needed for cleaning and shelling, the prices at which all peanuts are marketed are depressed to low levels. These low prices tend to cause the quantity of peanuts available for marketing in later years to be less than normal, which in turn tends to cause relatively high prices. This fluctuation of prices and marketings of peanuts creates an unstable and chaotic condition in the marketing of peanuts for cleaning and shelling and for crushing for oil in the channels of interstate and foreign commerce. Since these unstable and chaotic conditions have existed for a period of years and are likely, without proper regulation, to continue to exist, it is imperative that the marketing of peanuts for cleaning and shelling and for crushing for oil in interstate and foreign commerce be regulated in order to protect producers, handlers, processors, and consumers.

(Feb. 16, 1938, ch. 30, title III, § 357, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 88.)

MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR 1947

Joint Res. July 24, 1946, ch. 617, 60 Stat. 663, suspended marketing quotas and acreage allotments for 1947 in view of the critical shortage of high protein foods and feeds, and fats and oil.

§ 1358. National marketing quota

(a) Proclamation; amount

Between July 1 and December 1 of each calendar year the Secretary shall proclaim the amount of the national marketing quota for peanuts for the crop produced in the next succeeding calendar year in terms of the total quantity of peanuts which will make available for marketing a supply of peanuts from the crop with respect to which the quota is proclaimed equal to the average quantity of peanuts harvested for nuts during the five years immediately preceding the year in which such quota is proclaimed, adjusted for current trends and prospective demand conditions, and the quota so proclaimed shall be in effect with respect to such crop. The national marketing quota for peanuts for any year shall be converted to a national acreage allotment by dividing such quota by the normal yield per acre of peanuts for the United States determined by the Secretary on the basis of the acreage yield per acre of peanuts in the five years preceding the year in which the quota is proclaimed, with such adjustments as may be found necessary to correct for trends in yields and for abnormal conditions of production affecting yields in such five years: *Provided*, That the national marketing quota established for the crop produced in the calendar year 1941 shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than one million six hundred and ten thousand acres, and that the national marketing quota established for any subsequent year shall be quantity of peanuts sufficient to provide a national acreage allotment of not less than that established for the crop produced in the calendar year 1941.

(b) Referendum

Not later than December 15 of each calendar year the Secretary shall conduct a referendum of farmers engaged in the production of peanuts in the calendar year in which the referendum is held to determine whether such farmers are in favor of or opposed to marketing quotas with respect to the crops of peanuts produced in the three calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the farmers voting in any referendum vote in favor of marketing quotas, no referendum shall be held with respect to quotas for the second and third years of the period. The Secretary shall proclaim the results of the referendum within thirty days after the date on which it is held, and, if more than one-third of the farmers voting in the referendum vote against marketing quotas, the Secretary also shall proclaim that marketing quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held. Notwithstanding any other provisions of this section, the Secretary shall proclaim a national marketing quota with respect to the crop of peanuts produced in the calendar year 1941 equal to the minimum quota provided for said year in subsection (a) of this section and shall provide for the holding of a referendum on such quota within thirty days after April 3, 1941, and the State and farm acreage allotments established under the 1941 agricultural conservation program shall be the State and farm acreage allotments for the 1941 crop of peanuts. Notwithstanding any other provision hereof, the referendum with respect to marketing quotas for the crops of peanuts produced in the 1986, 1987, and 1988 calendar years may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.

(c) Apportionment of national acreage allotment

(1) The national acreage allotment for 1951, less the acreage to be allotted to new farms under subsection (f) of this section, shall be apportioned among the States on the basis of the larger of the following for each State: (a) The acreage allotted to the State as its share of the 1950 national acreage allotment of two million one hundred thousand acres, or (b) the State's share of two million one hundred thousand acres apportioned to States on the basis of the average acreage harvested for nuts in each State in the five years 1945–1949: *Provided*, That any allotment so determined for any State which is less than the 1951 State allotment announced by the Secretary prior to February 16, 1938, shall be increased to such announced allotment and the acreage required for such increases shall be in addition to the 1951 national acreage allotment and shall be considered in determining State acreage allotments in future years. For any year subsequent to 1951, the national acreage allotment for that year shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made.

(2) Notwithstanding any other provision of law, if the Secretary of Agriculture determines, on the basis of the average yield per acre of peanuts by types during the preceding five years, adjusted for trends in yields and abnormal conditions of production affecting yields in such five years, that the supply of any type or types of peanuts for any marketing year, beginning with the 1951–1952 marketing year, will be insufficient to meet the estimated demand for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it, the State allotments for those States producing such type or types of peanuts shall be increased to the extent determined by the Secretary to be required to meet such demand but the allotment for any State may not be increased under this provision above the 1947 harvested acreage of peanuts for such State. The total increase so determined shall be apportioned among such States for distribution among farms producing peanuts of such type or types on the basis of the average acreage of peanuts of such type or types in the three years immediately preceding the year for which the allotments are being determined. The additional acreage so required shall be in addition to the national acreage allotment, the production from such acreage shall be in addition to the national marketing quota, and the increase in acreage allotted under this provision shall not be considered in establishing future State, county, or farm acreage allotments.

(d) Farm acreage allotments

The Secretary shall provide for the apportionment of the State acreage allotment for any State, less the acreage to be allotted to new farms under subsection (f) of this section, through local committees among farms on which peanuts were grown in any of the three years immediately preceding the year for which such allotment is determined. The State acreage allotment for 1952 and any subsequent year shall be apportioned among farms on which peanuts were produced in any one of the three calendar years immediately preceding the year for which such apportionment is made, on the basis of the following: Past acreage of peanuts, taking into consideration the acreage allotments previously established for the farm; abnormal conditions affecting acreage; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts. Any acreage of peanuts harvested in excess of the allotted acreage for any farm for any year shall not be considered in the establishment of the allotment for the farm in succeeding years. The amount of the marketing quota for each farm shall be the actual production of the farm-acreage allotment, and no peanuts shall be marketed under the quota for any farm other than peanuts actually produced on the farm.

(e) County acreage allotments

Notwithstanding the foregoing provisions of this section, the Secretary may, if the State committee recommends such action and the Secretary determines that such action will facilitate the effective administration of the provisions of this chapter, provide for the apportionment of the State acreage allotment for 1952 and any subsequent year among the counties in the State on the basis of the past acreage of peanuts harvested for nuts (excluding acreage in excess of farm allotments) in the county during the five years immediately preceding the year in which such apportionment is made, with such adjustments as are deemed necessary for abnormal conditions affecting acreage, for trends in acreage, and for additional allotments for types of peanuts in short supply under the provisions of subsection (c) of this section. The county acreage allotment shall be apportioned among farms on the basis of the factors set forth in subsection (d) of this section.

(f) New farm allotments

Not more than 1 per centum of the State acreage allotment shall be apportioned among farms in the State on which peanuts are to be produced during the calendar year for which the allotment is made but on which peanuts were not produced during any one of the past three years, on the basis of the following: Past peanut-producing experience by the producers; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts.

(g) Release and reapportionment of farm-acreage allotments

Any part of the acreage allotted to individual farms under the provisions of this section on which peanuts will not be produced and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiving allotments, in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for the production of peanuts, crop-rotation practices, and soil and other physical factors affecting the production of peanuts. Any transfer of allotments under this provision shall not operate to reduce the allotment for any subsequent year for the farm from which acreage is transferred, except as the farm becomes ineligible for an allotment by failure to produce peanuts during a three-year period, and any such transfer shall not operate to increase the allotment for any subsequent year for the farm to which the acreage is transferred: *Provided*, That, notwithstanding any other provisions of this chapter, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85–835, title V, § 501, Aug. 28, 1958, 72 Stat. 996

(i) Production on farms with no allotments

The production of peanuts on a farm in 1959 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsection (d) of this section: *Provided, however*, That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsection (f) of this section, but such production shall not be deemed past experience in the production of peanuts for any producer on the farm.

(j) Transfer of acreage allotment

Notwithstanding any other provision of this chapter, if the Secretary determines for 1976 or a subsequent year that because of a natural disaster a portion of the farm peanut acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the peanut acreage allotments for any farm in the county so affected to another farm in the county or in an adjoining county in the same or an adjoining State on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of peanuts and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be released acreage for the purpose of acreage history credits under subsection (g) of this section and section 1377 of this title: *Provided*, That notwithstanding the provisions of subsection (g) of this section, the transfer of any farm allotment under this subsection shall operate to make the farm from which the allotment was transferred eligible for an allotment as having peanuts planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, § 358, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 88; amended July 9, 1942, ch. 497, § 1(1), 56 Stat. 653; July 26, 1946, ch. 677, 60 Stat. 705; Aug. 1, 1947, ch. 445, § 1, 61 Stat. 721; Aug. 29, 1949, ch. 518, § 4, 63 Stat. 676; Mar. 31, 1950, ch. 81, § 6(b), 64 Stat. 43; Apr. 12, 1951, ch. 28, § 1, 65 Stat. 29; Aug. 21, 1958, Pub. L. 85–717, § 1, 72 Stat. 709; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 996; Aug. 3, 1971, Pub. L. 92–62, §§ 1–3, 85 Stat. 163, 164; Mar. 25, 1976, Pub. L. 94–247, 90 Stat. 285; Sept. 29, 1977, Pub. L. 95–113, title VIII, §§ 801(b), 802, 91 Stat. 944; Dec. 22, 1981, Pub. L. 97–98, title VII, § 702, 95 Stat. 1248; Nov. 15, 1985, Pub. L. 99–157, § 5, 99 Stat. 818; Dec. 23, 1985, Pub. L. 99–198, title VII, § 702, 99 Stat. 1430; Dec. 13, 1991, Pub. L. 102–237, title I, § 117(b)(2)(A), 105 Stat. 1841.)

AMENDMENTS

1991—Subsec. (v)(3). Pub. L. 102–237 made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

1985—Subsec. (b). Pub. L. 99–157 inserted at end "Notwithstanding any other provision hereof, the referendum with respect to marketing quotas for the crops of peanuts produced in the 1986, 1987, and 1988 calendar years may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress."

Subsecs. (q) to (v). Pub. L. 99–198 temporarily added subsecs. (q) to (v). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (k) to (p). Pub. L. 97–98 temporarily added subsecs. (k) to (p). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (c)(1). Pub. L. 95–113, § 801(b), temporarily inserted proviso that the peanut acreage allotment for the State of New Mexico not be reduced below the 1977 acreage allotment as increased pursuant to subsec. (c)(2) of this section. See Effective and Termination Dates of 1977 Amendment note below.

Subsecs. (k) to (p). Pub. L. 95–113, § 802, temporarily added subsecs. (k) to (p). See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (j). Pub. L. 94–247 added subsec. (j).

1971—Subsec. (c)(1). Pub. L. 92–62, § 1, struck out ", less the acreage to be allotted to new farms under subsection (f) of this section," after "For any year subsequent to 1951, the national acreage allotment for that year".

Subsec. (d). Pub. L. 92–62, § 2, inserted in first sentence "the" before "apportionment" and ", less the acreage to be allotted to new farms under subsection (f) of this section,".

Subsec. (f). Pub. L. 92–62, § 3, substituted "1 per centum of the State acreage allotment shall be apportioned among farms in the State" for "one per centum of the national acreage allotment shall be apportioned among farms".

1958—Subsec. (h). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85–835, repealed subsec. (h) which related to allotments for displaced farm owners, and is covered by section 1378(a), (b) of this title.

Subsec. (i). Pub. L. 85–717 added subsec. (i).

1951—Subsec. (c). Act Apr. 12, 1951, provided for allocation of 1951 national acreage allotment among the States.

Subsec. (d). Act Apr. 12, 1951, provided that the State acreage allotment for 1952 and subsequent years shall be apportioned among old peanut farms on basis of past acreage of peanuts.

Subsecs. (e) to (h). Act Apr. 12, 1951, added subsecs. (e) to (h).

1950—Subsec. (d). Act Mar. 31, 1950, provided that any acreage of peanuts harvested in excess of allotted acreage for any farm for any year shall not be considered in establishment of allotment for the farm in succeeding years.

1949—Subsec. (c). Act Aug. 29, 1949, provided that acreage allotment for any State after 1949 shall not be less than 60 percent of acreage of peanuts harvested for nuts in the State in 1948.

1947—Subsec. (d). Act Aug. 1, 1947, substituted last sentence for former last sentence which, as substituted by act July 9, 1942, provided that the amount of marketing quota for each farm should be a number of pounds of peanuts equal to the normal or actual production, which ever was greater, of the farm peanut acreage allotment.

1946—Subsec. (a). Act July 26, 1946, struck out of proviso "95 per centum of" in order to give States an allotment at least equal to 100 percent of the acreage in said State during 1941.

Subsec. (c). Act July 26, 1946, struck out of first proviso "95 per centum of" and inserted immediately preceding colon "and any additional acreage so required shall be in addition to the national allotment and the production from such acreage shall be in addition to the national marketing quota" in order to give States an allotment at least equal to 100 percent of the acreage in said State during 1941, and to protect other States against any loss of acreage by reason of this change.

1942—Subsec. (d). Act July 9, 1942, substituted last sentence for former last sentence.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 702 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 702 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 801(b) of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

Section 802 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note set out under section 1378 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to

milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(B) of this title.

Pub. L. 101–624, title VIII, § 801(1), Nov. 28, 1990, 104 Stat. 3459, provided that subsecs. (a) through (j) of this section are inapplicable to 1991 through 1995 peanut crops.

Section 701(1) of Pub. L. 99–198 provided that subsecs. (a) through (j) of this section are inapplicable to 1986 through 1990 peanut crops.

Section 701(1) of Pub. L. 97–98 provided that subsecs. (a) through (j) of this section are inapplicable to 1982 through 1985 peanut crops.

Section 801(a) of Pub. L. 95–113 provided that: ''Subsections (a) and (e) [of this section] shall not be applicable to the 1978 through 1981 crops of peanuts.''

PEANUT ACREAGE ALLOTMENT FOR 1950

Section 7 of act Mar. 31, 1950, prohibited reduction of the peanut acreage allotment for any State by a percentage larger than the percentage by which the 1950 national acreage allotment is below the 1949 national acreage allotment and directed that the allotment for any State shall be increased to the extent required to provide such minimum State allotment and such acreage required shall be in addition to the national acreage allotment.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941. Such emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

§ 1358–1. National poundage quotas and acreage allotments for peanuts

(a) National poundage quotas

(1) Establishment

The national poundage quota for peanuts for each marketing year shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible use (except seed) and related uses.

(2) Announcement

The national poundage quota for a marketing year shall be announced by the Secretary not later than December 15 preceding the marketing year.

(3) Apportionment among States

The national poundage quota established under paragraph (1) shall be apportioned among the States so that the poundage quota allocated to each State shall be equal to the percentage of the national poundage quota allocated to farms in the State for 1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years.

(b) Farm poundage quotas

(1) In general

(A) Establishment

A farm poundage quota for each marketing year shall be established—

(i) for each farm that had a farm poundage quota for peanuts for the 1990 marketing year, in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years;

(ii) if the poundage quota apportioned to a State under subsection (a)(3) of this section for any such marketing year is larger than the quota for the immediately preceding marketing year, for each other farm on which peanuts were produced for marketing in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary; and

(iii) as approved and determined by the Secretary under section 1358c of this title, for each farm on which peanuts are produced in connection with experimental and research programs.

(B) Quantity

The farm poundage quota for each marketing year for each farm described in subparagraph (A)(i) shall be the same as the farm poundage quota for the farm for the immediately preceding marketing year, as adjusted under paragraph (2), but not including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7). The farm poundage quota, if any, for each marketing year for each farm described in subparagraph (A)(ii) shall be equal to the quantity of peanuts allocated to the farm for the year under paragraph (2).

(C) Transfers

For purposes of this subsection, if the farm poundage quota, or any part thereof, is permanently transferred in accordance with section 1358a or 1358b of this title, the receiving farm shall be considered as possessing the farm poundage quota (or portion thereof) of the transferring farm for all subsequent marketing years.

(D) Certain farms ineligible for quota

Effective beginning with the 1998 crop, the Secretary shall not establish a farm poundage quota under subparagraph (A) for a farm owned or controlled by—

(i) a municipality, airport authority, school, college, refuge, or other public entity (other than a university used for research purposes); or

(ii) a person who is not a producer and resides in another State.

(2) Adjustments

(A) Allocation of increased quota generally

Except as provided in subparagraph (D), if the poundage quota apportioned to a State under subsection (a)(3) of this section for any marketing year is increased over the poundage quota apportioned to farms in the State for the immediately preceding marketing year, the increase shall be allocated proportionately, based on farm production history for peanuts for the 3 immediately preceding years, among—

(i) all farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made; and

(ii) all other farms in the State on each of which peanuts were produced in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary.

(B) Temporary quota allocation

(i) Allocation related to seed peanuts

Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

(ii) Quantity

The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted and determined under regulations prescribed by the Secretary.

(iii) Additional quota

The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total, to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

(iv) Effect of other requirements

Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 1359a(b) of this title.

(C) Decrease

If the poundage quota apportioned to a State under subsection (a)(3) of this section for any marketing year is decreased from the poundage quota apportioned to farms in the State under subsection (a)(3) of this section for the immediately preceding marketing year, the decrease shall be allocated among all the farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made.

(D) Special rule on tenant's share of increased quota

Subject to terms and conditions prescribed by the Secretary, on farms that were leased to a tenant for peanut production, the tenant shall share equally with the owner of the farm in that percentage of the quota referred to in subparagraph (A) and otherwise allocated to the farm as the result of the tenant's production on the farm of additional peanuts. Not later than April 1 of each year or as soon as practicable, the tenant's share of any such quota shall be allocated to a farm within the county owned by the tenant or sold by the tenant to the owner of any farm within the county and permanently transferred to that farm. Any quota not so disposed of as provided in this subparagraph shall be allocated to other quota farms in the State under paragraph (6) as part of the quota reduced from farms in the State due to the failure to produce the quota.

(E) Transfer of quota from ineligible farms

Any farm poundage quota held at the end of the 1996 marketing year by a farm described in paragraph (1)(D) shall be allocated to other farms in the same State on such basis as the Secretary may by regulation prescribe.

(3) Quota not produced

(A) In general

Insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, the farm poundage quota established for a farm for any marketing year shall be reduced to the extent that the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 marketing years preceding the marketing year for which the determination is being made was not produced, or considered produced, on the farm.

(B) Exclusions

For the purposes of this paragraph, the farm poundage quota for any such preceding marketing year shall not include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

(4) Quota considered produced

For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if—

(A) the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary;

(B) the farm poundage quota for the farm was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made; or

(C) the farm poundage quota was leased to another owner or operator of a farm within the same county for transfer to such farm for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made.

(5) Quota permanently released

Notwithstanding any other provision of law—

(A) the farm poundage quota established for a farm under this subsection, or any part of the quota, may be permanently released by the owner of the farm, or the operator with the permission of the owner; and

(B) the poundage quota for the farm for which the quota is released shall be adjusted downward to reflect the quota that is so released.

(6) Allocation of quotas reduced or released

(A) In general

Except as provided in subparagraphs (B) and (C), the total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs (3) and (5) shall be allocated, as the Secretary may by regula-

tion prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

(B) Set-aside for farms with no quota

Not more than 25 percent of the total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the immediately preceding year's crop. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm.

(C) Allocation of quotas reduced or released in Texas

(i) In general

In Texas, and subject to terms and conditions prescribed by the Secretary, beginning with the 1991 marketing year, the total quantity of the farm poundage quota, except the percentage allocated to new farms under subparagraph (B), shall be allocated to other farms having poundage quotas for the 1990 marketing year in all counties in which the production of additional peanuts exceeded the total quota allocated to the county for the 1989 marketing year.

(ii) Basis for allocation to counties

The allocation of the quota to eligible counties shall be based on the total production of additional peanuts in the respective county for the 1988 crop, except that the total quota allocated to any county under this subparagraph and paragraph (2)(B) shall not be increased by more than 100 percent of the basic quota allocated to the county for the 1989 marketing year, if that county had more than 10,000 tons of quota for the 1989 marketing year.

(iii) Allocation to other counties

If the total quota for any such county is so increased by 100 percent, all of the remaining quota set aside under this subparagraph shall be allocated to farms in other counties otherwise meeting the requirements of this subparagraph.

(iv) Allocation to eligible farms

The percentage of farm poundage quota available for allocation under this subparagraph shall be allocated only to quota farms from which additional peanuts were delivered under contract with handlers for the marketing year immediately preceding the marketing year for which the allocation is being made. The percentage of the increased quota in each county shall be allocated among the eligible farms in the county on the following basis:

(I) Factor

A factor shall be established for each such eligible farm by dividing the amount of additional peanuts contracted and delivered to handlers from the farm by the total remaining peanuts produced on the farm for the marketing year immediately preceding the marketing year for which the allocation is being made.

(II) Allocation

Each such eligible farm shall be allocated the percentage of the increased quota for the county as its factor bears to the total of the factors for all eligible farms in the county.

(7) Quota temporarily released

(A) In general

The farm poundage quota, or any portion thereof, established for a farm for a marketing year may be voluntarily released to the Secretary to the extent that the quota, or any part thereof, will not be produced on the farm for the marketing year. Any farm poundage quota so released in a State shall be allocated to other farms in the State on such basis as the Secretary may by regulation prescribe.

(B) Effective period

Except as otherwise provided in this section, any adjustment in the farm poundage quota for a farm under subparagraph (A) shall be effective only for the marketing year for which it is made and shall not be taken into consideration in establishing a farm poundage quota for the farm from which the quota was released for any subsequent marketing year.

(8) Disaster transfers

(A) In general

Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide.

(B) Limitation

The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

(C) Support rate

Peanuts transferred under this paragraph shall be supported at 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.

(c) Farm yields

(1) In general

For each farm for which a farm poundage quota is established under subsection (b) of

this section, and when necessary for purposes of this chapter, a farm yield of peanuts shall be determined for each such farm.

(2) Quantity

The yield shall be equal to the average of the actual yield per acre on the farm for each of the 3 crop years in which yields were highest on the farm out of the 5 crop years 1973 through 1977.

(3) Appraised yields

If peanuts were not produced on the farm in at least 3 years during the 5-year period or there was a substantial change in the operation of the farm during the period (including a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that quantity determined to be fair and reasonable on the basis of yields established for similar farms that are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

(d) Referendum respecting poundage quotas

(1) In general

Not later than December 15 of each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the 5 calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the second, third, fourth, and fifth years of the period.

(2) Proclamation

The Secretary shall proclaim the result of the referendum within 30 days after the date on which it is held.

(3) Vote against quotas

If more than one-third of the producers voting in the referendum vote against quotas, the Secretary also shall proclaim that poundage quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held.

(e) Definitions

For the purposes of this subpart and title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.):

(1) Additional peanuts

The term ''additional peanuts'' means, for any marketing year—

(A) any peanuts that are marketed from a farm for which a farm poundage quota has been established and that are in excess of the marketings of quota peanuts from the farm for the year; and

(B) all peanuts marketed from a farm for which no farm poundage quota has been established in accordance with subsection (b) of this section.

(2) Crushing

The term ''crushing'' means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary.

(3) Domestic edible use

The term ''domestic edible use'' means use for milling to produce domestic food peanuts (other than those described in paragraph (2)) and seed and use on a farm, except that the Secretary may exempt from this definition seeds of peanuts that are used to produce peanuts excluded under section 1359(c) of this title, are unique strains, and are not commercially available.

(4) Quota peanuts

The term ''quota peanuts'' means, for any marketing year, any peanuts produced on a farm having a farm poundage quota, as determined in subsection (b) of this section, that—

(A) are eligible for domestic edible use as determined by the Secretary;

(B) are marketed or considered marketed from a farm; and

(C) do not exceed the farm poundage quota of the farm for the year.

(f) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 2002 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358–1, as added Nov. 28, 1990, Pub. L. 101–624, title VIII, § 802, 104 Stat. 3459; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 117(b)(2)(B), 105 Stat. 1841; Aug. 10, 1993, Pub. L. 103–66, title I, § 1109(c)(1), 107 Stat. 326; Apr. 4, 1996, Pub. L. 104–127, title I, § 155(i)(1)(A), (2)–(4)(A), (5), 110 Stat. 927–929.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in subsec. (e), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. Title I of the Act is classified generally to subchapter II (§ 1441 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127, § 155(i)(1)(A)(i), struck out ''1991 through 1997 crops of'' before ''peanuts'' in section catchline.

Subsec. (a)(1). Pub. L. 104–127, § 155(i)(3)(A), substituted ''domestic edible use (except seed)'' for ''domestic edible, seed,''.

Pub. L. 104–127, § 155(i)(2), struck out at end ''Notwithstanding any other provision of this paragraph, the national poundage quota for a marketing year shall not be less than 1,350,000 tons.''

Pub. L. 104–127, § 155(i)(1)(A)(ii), substituted ''marketing year shall'' for ''of the 1991 through 1997 marketing years shall''.

Subsec. (a)(3). Pub. L. 104–127, § 155(i)(1)(A)(iii), substituted ''1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years'' for ''1990''.

Subsec. (b)(1)(A). Pub. L. 104–127, § 155(i)(1)(A)(iv)(I), substituted ''each marketing year'' for ''each of the

1991 through 1997 marketing years'' in introductory provisions.

Subsec. (b)(1)(A)(i). Pub. L. 104–127, § 155(i)(1)(A)(iv)(II), inserted before semicolon '', in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years''.

Subsec. (b)(1)(B). Pub. L. 104–127, § 155(i)(4)(A)(i), substituted ''including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).'' for ''including—

''(i) any increases for undermarketings from previous years; or

''(ii) any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).''

Pub. L. 104–127, § 155(i)(1)(A)(ii), substituted ''marketing year for'' for ''of the 1991 through 1997 marketing years for'' in two places.

Subsec. (b)(1)(D). Pub. L. 104–127, § 155(i)(1)(A)(v), added subpar. (D).

Subsec. (b)(2)(A). Pub. L. 104–127, § 155(i)(1)(A)(ii), (3)(B)(i), in introductory provisions, struck out ''subparagraph (B) and subject to'' after ''Except as provided in'' and substituted ''marketing year is increased'' for ''of the 1991 through 1997 marketing years is increased''.

Subsec. (b)(2)(B). Pub. L. 104–127, § 155(i)(3)(B)(ii), substituted subpar. (B) relating to temporary quota allocation for former subpar. (B) relating to allocation of increased quota in Texas.

Subsec. (b)(2)(C). Pub. L. 104–127, § 155(i)(1)(A)(ii), substituted ''marketing year is'' for ''of the 1991 through 1997 marketing years is''.

Subsec. (b)(2)(E). Pub. L. 104–127, § 155(i)(1)(A)(vi), added subpar. (E).

Subsec. (b)(3)(A). Pub. L. 104–127, § 155(i)(1)(A)(ii), substituted ''marketing year shall'' for ''of the 1991 through 1997 marketing years shall''.

Subsec. (b)(3)(B). Pub. L. 104–127, § 155(i)(4)(A)(ii), substituted ''include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).'' for ''include—

''(i) any increases for undermarketing of quota peanuts from previous years; or

''(ii) any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).''

Subsec. (b)(8). Pub. L. 104–127, § 155(i)(5), added par. (8).

Pub. L. 104–127, § 155(i)(4)(A)(iii), struck out par. (8) which provided for increase in quota for undermarketings in previous marketing years.

Subsec. (b)(9). Pub. L. 104–127, § 155(i)(4)(A)(iii), struck out heading and text of par. (9). Prior to amendment, text read as follows: ''Notwithstanding the foregoing provisions of this subsection, if the total of all increases in individual farm poundage quotas under paragraph (8) exceeds 10 percent of the national poundage quota for the marketing year in which the increases shall be applicable, the Secretary shall adjust the increases so that the total of all the increases does not exceed 10 percent of the national poundage quota.''

Subsec. (f). Pub. L. 104–127, § 155(i)(1)(A)(vii), substituted ''2002'' for ''1997''.

1993—Pub. L. 103–66 substituted ''1997'' for ''1995'' in section catchline and wherever appearing in subsecs. (a)(1), (b)(1)(A), (B), (2)(A), (C), (3)(A), and (f).

1991—Subsec. (e)(3). Pub. L. 102–237 made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

REGULATIONS

Section 809 of title VIII of Pub. L. 101–624 provided that: ''The Secretary of Agriculture shall issue such regulations as are necessary to carry out this title [enacting this section and sections 1358b, 1358c, 1359a, and 1445c–3 of this title, amending sections 1373 and 1445c–2 of this title, repealing sections 1445c and 1445c–1 of this title, and enacting provisions set out as notes under sections 1358, 1358a, 1359, prec. 1361, 1371, 1373, and 1441 of this title] and the amendments made by this title. In issuing the regulations, the Secretary—

''(1) is encouraged to comply with subchapter II of chapter 5 of title 5, United States Code;

''(2) shall provide public notice through the Federal Register of any such proposed regulations; and

''(3) shall allow adequate time for written public comment prior to the formulation and issuance of any final regulations.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7271 of this title.

§ 1358a. Transfer of peanut acreage allotments

(a) Authority to permit transfers

Notwithstanding any other provision of law for the 1968 and succeeding crop years, the Secretary, if he determines that it will not impair the effective operation of the peanut marketing quota or price-support program, (1) may permit the owner and operator of any farm for which a peanut acreage allotment is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm in the same county for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him.

(b) Conditions upon transfer; adjustment of allotment

Transfers under this section shall be subject to the following conditions: (1) no allotment shall be transferred to a farm in another county; (2) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment from a farm shall be permitted if any sale of allotment to the same farm has been made within the three immediately preceding crop years; (4) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county in which such transfer is made and such committee determines that the transfer complies with the provisions of this section; and (5) if the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease or sale and transfer shall be approved acre for acre, but if the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred: *Provided*, That in the

event an allotment is transferred to a farm which at the time of such transfer is not irrigated, but within five years subsequent to such transfer is placed under irrigation, the Secretary shall also make an annual downward adjustment in the allotment so transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the actual yield for the previous year, adjusted for abnormal weather conditions, on the farm to which the allotment is transferred: *Provided further*, That, notwithstanding any other provision of this chapter, the adjustment made in any peanut allotment because of the transfer to a higher producing farm shall not reduce or increase the size of any future National or State allotment and an acreage equal to the total of all such adjustments shall not be allotted to any other farms.

(c) Transfer of acreage history and marketing quota; transfer by lease

The transfer of an allotment shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided*, That in the case of a transfer by lease the amount of the allotment shall be considered, for the purpose of determining allotments after the expiration of the lease, to have been planted on the farm from which such allotment is transferred.

(d) Eligibility of transferred land for new allotment

The land in the farm from which the entire peanut allotment has been transferred shall not be eligible for a new farm peanut allotment during the five years following the year in which such transfer is made.

(e) Duration of lease; terms and conditions

Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(f) Lease of part of acreage allotment; determination of future allotments; eligibility for referendum

The lease of any part of a peanut acreage allotment determined for a farm shall not affect the allotment for the farm from which such allotment is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment which is leased from a farm shall be considered for purposes of determining future allotments to have been planted to peanuts on the farm from which such allotment is leased and the production pursuant to the lease shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of peanuts for purposes of eligibility to vote in the referendum.

(g) Regulations; limitations on transfers

The Secretary shall prescribe regulations for the administration of this section which may include reasonable limitation on the size of the resulting allotments on farms to which transfers are made and such other terms and conditions as he deems necessary, but the total peanut allotment transferred to any farm by sale or lease shall not exceed fifty acres.

(h) Adjustment of rates for land utilization agreements

If the sale or transfer occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(Feb. 16, 1938, ch. 30, title III, § 358a, as added Dec. 18, 1967, Pub. L. 90–211, 81 Stat. 658; amended Nov. 21, 1969, Pub. L. 91–122, 83 Stat. 213; Dec. 22, 1970, Pub. L. 91–568, 84 Stat. 1499; Sept. 29, 1977, Pub. L. 95–113, title VIII, § 803, 91 Stat. 946; Dec. 22, 1981, Pub. L. 97–98, title VII, § 703, 95 Stat. 1251; Dec. 23, 1985, Pub. L. 99–198, title VII, § 703, 99 Stat. 1434; Aug. 11, 1988, Pub. L. 100–387, title III, § 304(a)(2), 102 Stat. 948.)

AMENDMENTS

1988—Subsec. (k)(1). Pub. L. 100–387 temporarily inserted at end ''In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.'' See Effective and Termination Dates of 1988 Amendment note below.

1985—Subsecs. (k), (*l*). Pub. L. 99–198 temporarily added subsecs. (k) and (*l*). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (i), (j). Pub. L. 97–98 temporarily added subsecs. (i) and (j). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95–113, § 803(1), temporarily struck out '', if he determines that it will not impair the effective operation of the peanut marketing quota or price support program,'' after ''the Secretary'' and substituted ''shall'' for ''may'' wherever appearing. See Effective and Termination Dates of 1977 Amendment note below.

Subsec. (i). Pub. L. 95–113, § 803(2), temporarily added subsec. (i). See Effective and Termination Dates of 1977 Amendment note below.

1970—Subsec. (a). Pub. L. 91–568 substituted ''1968 and succeeding crop years'' for ''1968, 1969, and 1970 crop years''.

1969—Subsec. (a). Pub. L. 91–122 inserted provisions relating to the 1970 crop year.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 304(a)(2) of Pub. L. 100–387 provided that the amendment made by that section is effective for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 703 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 703 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 803 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(C) of this title.

Pub. L. 101–624, title VIII, § 801(2), Nov. 28, 1990, 104 Stat. 3459, provided that subsecs. (a) through (h) of this section are inapplicable to 1991 through 1995 crops of peanuts.

Section 701(2) of Pub. L. 99–198 provided that subsecs. (a) through (h) of this section are inapplicable to 1986 through 1990 crops of peanuts.

Section 701(2) of Pub. L. 97–98 provided that subsecs. (a) through (h) of this section are inapplicable to 1982 through 1985 crops of peanuts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1358–1, 7301 of this title.

§ 1358b. Sale, lease, or transfer of farm poundage quota for peanuts

(a) In general

(1) Sale and lease authority

(A) Sale or lease within same State

Subject to subparagraph (B) and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of a farm in a State for which a farm poundage quota has been established may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same State for transfer to the farm. However, any such lease of poundage quota may be entered into in the fall or after the normal planting season—

(i) if not less than 90 percent of the basic quota (the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

(ii) under such terms and conditions as the Secretary may by regulation prescribe.

In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

(B) Percentage limitations on spring transfers

Spring transfers under subparagraph (A) by sale or lease of a quota for farms in a county to any owner or operator of a farm outside the county within the same State shall not exceed the applicable percentage specified in this subparagraph of the quotas of all farms in the originating county (as of January 1, 1996) for the crop year in which the transfer is made, plus the total amount of quotas eligible for transfer from the originating county in the preceding crop year that were not transferred in that year or that were transferred through an expired lease. However, not more than an aggregate of 40 percent of the total poundage quota within a county (as of January 1, 1996) may be transferred outside of the county. Cumulative unexpired transfers outside of a county may not exceed for a crop year the following:

(i) For the 1996 crop, 15 percent.

(ii) For the 1997 crop, 25 percent.

(iii) For the 1998 crop, 30 percent.

(iv) For the 1999 crop, 35 percent.

(v) For the 2000 and subsequent crops, not more than an aggregate of 40 percent of the total poundage quota within the county as of January 1, 1996.

(C) Clarification regarding fall transfers

The limitation in subparagraph (B) does not apply to 1-year fall transfers, which in all cases may be made to any farm in the same State.

(D) Effect of transfer

Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm.

(2) Transfers to other self-owned farms

The owner or operator of a farm may transfer all or any part of the farm poundage quota to any other farm owned or controlled by the owner or operator that is in the same county or in a county contiguous to the county in the same State and that had a farm poundage quota for the preceding year's crop. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm.

(3) Transfers in States with small quotas

Notwithstanding paragraphs (1) and (2), in the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in one county to a farm in another county in the same State.

(4) Transfers in counties with small quotas

Notwithstanding paragraphs (1) and (2), in the case of any county in a State for which the poundage quota allocated to the county was less than 100,000 pounds for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in the county to a farm in another county in the same State.

(b) Conditions

Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

(1) Lienholders

No transfer of the farm poundage quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders.

(2) Tillable cropland

No transfer of the farm poundage quota shall be permitted if the county committee established under section 590h(b) of title 16 determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

(3) Record

No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committee of the county to which the transfer is made and the committee determines that the transfer complies with this section.

(4) Other terms

Such other terms and conditions that the Secretary may by regulation prescribe.

(c) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 2002 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358b, as added Nov. 28, 1990, Pub. L. 101–624, title VIII, § 803, 104 Stat. 3466; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 122, 105 Stat. 1844; Apr. 4, 1996, Pub. L. 104–127, title I, § 155(i)(1)(B), (4)(B), (6), 110 Stat. 928, 929.)

AMENDMENTS

1996—Pub. L. 104–127, § 155(i)(1)(B)(i), struck out ''1991 through 1995 crops of'' before ''peanuts'' in section catchline.

Subsec. (a)(1). Pub. L. 104–127, § 155(i)(6)(A), added par. (1) and struck out heading and text of former par. (1). Prior to amendment, text read as follows: ''Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm poundage quota has been established under this chapter may sell or lease all or any part of the poundage quota (including any applicable under marketings) to any other owner or operator of a farm within the same county for transfer to the farm, except that any such lease of poundage quota (including any applicable under marketings) may be entered into in the fall or after the normal planting season—

''(A) if not less than 90 percent of the basic quota (the farm quota exclusive of undermarketings and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

''(B) under such terms and conditions as the Secretary may by regulation prescribe.

In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.''

Subsec. (a)(2). Pub. L. 104–127, § 155(i)(4)(B)(i), struck out ''(including any applicable under marketings)'' before ''to any other farm owned''.

Subsec. (a)(3). Pub. L. 104–127, § 155(i)(4)(B)(ii), struck out ''(including any applicable undermarketings)'' after ''farm poundage quota''.

Subsec. (a)(4). Pub. L. 104–127, § 155(i)(6)(B), added par. (4).

Subsec. (c). Pub. L. 104–127, § 155(i)(1)(B)(ii), substituted ''2002'' for ''1995''.

1991—Subsec. (a)(1). Pub. L. 102–237, § 122(1), inserted ''(including any applicable under marketings)'' after ''poundage quota'' in two places in introductory provisions.

Subsec. (a)(2). Pub. L. 102–237, § 122(2), substituted ''(including any applicable under marketings)'' for ''for the farm''.

Subsec. (a)(3). Pub. L. 102–237, § 122(3), inserted ''(including any applicable undermarketings)'' after ''farm poundage quota''.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1358–1 of this title.

§ 1358c. Experimental and research programs for peanuts

(a) In general

Notwithstanding any other provision of this chapter, the Secretary may permit a portion of the poundage quota for peanuts apportioned to any State to be allocated from the State's quota reserve to land-grant institutions identified in the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), and colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee Institute and, as appropriate, the Agricultural Research Service of the Department of Agriculture to be used for experimental and research purposes.

(b) Quantity

The quantity of the quota allocated to an institution under this section shall not exceed the quantity of the quota held by each such institution during the 1985 crop year, except that the total quantity allocated to all institutions in a State shall not exceed 1/10 of 1 percent of the State's basic quota.

(c) Limitation

The director of the agricultural experiment station for a State shall be required to ensure, to the extent practicable, that farm operators in the State do not produce quota peanuts under subsection (a) of this section in excess of the quantity needed for experimental and research purposes.

(d) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 2002 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358c, as added Nov. 28, 1990, Pub. L. 101–624, title VIII, § 805, 104 Stat. 3474; amended Apr. 4, 1996, Pub. L. 104–127, title I, § 155(i)(1)(C), 110 Stat. 928.)

REFERENCES IN TEXT

Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), referred to in subsec. (a), is known as the ''Smith-Lever Act'', and also known as the ''Agricultural Work Extension Act'', which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), referred to in subsec. (a), is popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act'', which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–127 substituted ''2002'' for ''1995''.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1358–1 of this title.

§ 1359. Marketing penalties

(a) The marketing of any peanuts in excess of the marketing quota for the farm on which such peanuts are produced, or the marketing of peanuts from any farm for which no acreage allotment was determined, shall be subject to a penalty at a rate equal to 75 per centum of the support price for peanuts for the marketing year (August 1 to July 31). Such penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer, or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by such agent, and such person or agent may deduct an amount equivalent to the penalty from the price paid to the producer. The Secretary may require collection of the penalty upon a portion of each lot of peanuts marketed from the farm equal to the proportion which the acreage of peanuts in excess of the farm-acreage allotment is of the total acreage of peanuts on the farm. If the person required to collect the penalty fails to collect such penalty, such person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable for the amount of the penalty. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States and such amounts as are determined, in accordance with regulations prescribed by the Secretary, to be penalties incurred shall be transferred to the general fund of the Treasury of the United States. Amounts collected in excess of determined penalties shall be paid to such producers as the Secretary determines, in accordance with regulations prescribed by him, bore the burden of the payment of the amount collected. Such special account shall be administered by the Secretary and the basis for, the amount of, and the producer entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive. Peanuts produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though the peanuts are marketed prior to the date on which such marketing year begins. If any producer falsely identifies or fails to account for the disposition of any peanuts, an amount of peanuts equal to the normal yield of the number of acres harvested in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. If any amount of peanuts produced on one farm is falsely identified by a representation that such peanuts were produced on another farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quotas, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of peanuts is not furnished as required by the Secretary, the acreage allotment next established for the farm on which such peanuts are produced shall be reduced by a percentage similarly computed. Notwithstanding any other provisions of this subpart, no refund of any penalty shall be made because of peanuts kept on the farm for seed or for home consumption.

(b) The provisions of this subpart shall not apply, beginning with the 1959 crop, to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less provided the producers who share in the peanuts produced on such farm do not share in the peanuts produced on any other farm. If the producers who share in the peanuts produced on a farm on which the acreage harvested for nuts is one acre or less also share in the peanuts produced on other farm(s) the peanuts produced on such farm on acreage in excess of the allotment, if any, determined for the farm shall be considered as excess acreage and the marketing penalties provided by subsection (a) of this section shall apply.

(c) The word ''peanuts'' for the purposes of this chapter shall mean all peanuts produced, excluding any peanuts which it is established by the producer or otherwise, in accordance with regulations of the Secretary, were not picked or threshed either before or after marketing from the farm, or were marketed by the producer before drying or removal of moisture from such peanuts either by natural or artificial means for consumption exclusively as boiled peanuts.

(d) The person liable for payment or collection of the penalty provided by this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(e) Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which such penalty is in-

curred, and on any subsequent crop of peanuts subject to marketing quotas in which the person liable for payment or the penalty has an interest shall be in effect in favor of the United States.

(Feb. 16, 1938, ch. 30, title III, § 358d, formerly § 359, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 90; amended July 9, 1942, ch. 497, § 1(2), (3), 56 Stat. 653; Aug. 1, 1947, ch. 445, § 2, 61 Stat. 721; July 3, 1948, ch. 827, title II, § 207(d), 62 Stat. 1257; Mar. 31, 1950, ch. 81, § 6(a), 64 Stat. 42; Apr. 12, 1951, ch. 28, § 2, 65 Stat. 31; Mar. 28, 1952, ch. 110, 66 Stat. 27; May 28, 1956, ch. 327, title III, §§ 305, 306, 70 Stat. 205; Aug. 13, 1957, Pub. L. 85–127, 71 Stat. 344; Aug. 21, 1958, Pub. L. 85–717, § 2, 72 Stat. 709; Sept. 29, 1977, Pub. L. 95–113, title VIII, § 804, 91 Stat. 946; July 7, 1979, Pub. L. 96–31, 93 Stat. 81; Dec. 22, 1981, Pub. L. 97–98, title VII, § 704, 95 Stat. 1251; Dec. 23, 1985, Pub. L. 99–198, title VII, § 704, 99 Stat. 1435; Aug. 14, 1989, Pub. L. 101–82, title VI, § 601, 103 Stat. 586; renumbered § 358d and amended Dec. 13, 1991, Pub. L. 102–237, title I, § 117(a), (b)(2)(C), 105 Stat. 1841.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237, § 117(b)(2)(C)(i), made a technical amendment to the reference to subsection (a) of this section to reflect a change in the reference to the corresponding provision of the original act.

Subsecs. (m)(1)(C), (i), (ii), (p)(1), (r)(2)(A). Pub. L. 102–237, § 117(b)(2)(C)(ii), made a technical amendment to the reference to section 1445c–2 of this title to reflect the renumbering of the corresponding section of the original act.

1989—Subsec. (p)(2)(B)(i). Pub. L. 101–82, § 601(1), which temporarily directed that ''(less such reasonable allowances for shrinkage as the Secretary may prescribe)'' be struck out was executed by striking out ''(less such reasonable allowance for shrinkage as the Secretary may prescribe)'' after ''in all of the following quantities'' to reflect the probable intent of Congress. See Effective and Termination Dates of 1989 Amendment note below.

Subsec. (p)(2)(B)(iv). Pub. L. 101–82, § 601(2), added cl. (iv).

1985—Subsecs. (m) to (s). Pub. L. 99–198 temporarily added subsecs. (m) to (s). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (f) to (*l*). Pub. L. 97–98 temporarily added subsecs. (f) to (*l*). See Effective and Termination Dates of 1981 Amendment note below.

1979—Subsec. (k). Pub. L. 96–31 temporarily added subsec. (k). See Effective and Termination Dates of 1979 Amendment note below.

1977—Subsec. (a). Pub. L. 95–113, § 804(1)–(3), temporarily substituted ''penalty at a rate equal to 120 per centum of the support price for quota peanuts'' for ''penalty at a rate equal to 75 per centum of the support price for peanuts'' and ''farm yield'' for ''normal yield'' and inserted provision that the marketing of any additional peanuts from a farm be subject to the 120 per centum penalty unless the peanuts, in accordance with regulations established by the Secretary, are placed under loan at the additional loan rate under the loan program made available under section 1445c(b) of this title and not redeemed by the producers or are marketed under contracts between handlers and producers pursuant to the provisions of subsection (i) of this section. See Effective and Termination Dates of 1977 Amendment note below.

Subsecs. (f) to (j). Pub. L. 95–113, § 804(4), temporarily added subsecs. (f) to (j). See Effective and Termination Dates of 1977 Amendment note below.

1958—Subsec. (b). Pub. L. 85–717 provided that after 1959 the one acre exemption applies only if producers do not share in peanuts produced on any other farm.

1957—Subsec. (c). Pub. L. 85–127 inserted '', or were marketed by the producer before drying or removal of moisture from such peanuts either by natural or artificial means for consumption exclusively as boiled peanuts''.

1956—Subsec. (a). Act May 28, 1956, § 305, substituted ''75 per centum of the support price for peanuts for the marketing year (August 1–July 31)'' for ''50 per centum of the basic rate of the loan (calculated to the nearest tenth of a cent) for farm marketing quota peanuts for the marketing year August 1–July 31''.

Subsecs. (d), (e). Act May 28, 1956, § 306, added subsecs. (d) and (e). Former subsecs. (d) and (e) were repealed by act July 3, 1948.

1952—Subsecs. (f) to (i). Act Mar. 28, 1952, repealed subsecs. (f) to (i), which permitted farmers to grow peanuts for oil in excess of marketing quotas.

1951—Subsec. (a). Act Apr. 12, 1951, inserted sentence beginning ''Notwithstanding any other''.

Subsec. (g). Act Apr. 12, 1951, established 1948 as the year to be referred to in cases where no peanuts were harvested in 1947, and provided that the Secretary may authorize peanut buyers to purchase excess peanuts from producers at specified price levels.

1950—Subsecs. (g) to (i). Act Mar. 31, 1950, added subsecs. (g) to (i).

1948—Subsecs. (d), (e). Act July 3, 1948, repealed subsecs. (d) and (e) which related to referendums and appropriations.

1947—Act Aug. 1, 1947, amended section generally, changing the penalty for excess marketing of peanuts from a flat penalty of 3 cents per pound to 50 per cent of the basic loan rate and substituted last two sentences for former last sentence which provided a $25 penalty per acre for falsely indemnifying or failing to account for peanuts produced in subsec. (a), striking out subsec. (b) exempting peanuts to be sold and crushed for oil or used for seed from excess marketing penalty, and redesignating subsecs. (c) to (g) as (b) to (f), respectively.

1942—Subsecs. (b), (d). Act July 9, 1942, amended subsecs. (b) and (d).

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 601 of Pub. L. 101–82 provided that the amendment made by that section is effective only for 1988 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 704 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 704 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Pub. L. 96–31 provided that the amendment made by Pub. L. 96–31 is effective for 1978 through 1981 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 804 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

EFFECTIVE DATE OF 1957 AMENDMENT

Pub. L. 85–127, as amended by Pub. L. 86–358, Sept. 22, 1959, 73 Stat. 642; Pub. L. 87–239, Sept. 14, 1961, 75 Stat. 512; Pub. L. 88–76 July 25, 1963, 77 Stat. 92; Pub. L. 89–321, title VII, § 704, Nov. 3, 1965, 79 Stat. 1210; Pub. L.

90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title VIII, § 802, Nov. 30, 1970, 84 Stat. 1381, provided that the amendment made by Pub. L. 85–127 is effective for 1957 and subsequent crops of peanuts.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 305 of act May 28, 1956, provided that the amendment made by that section is effective beginning with 1956 crop.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

SAVINGS PROVISION

Act Mar. 28, 1952, which repealed subsecs. (f) to (i), also provided that the repeal should not affect rights or obligations arising under marketing-quota or price support operations with respect to 1951 or prior crops of peanuts.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, with certain exceptions, transferred to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Treasurer of the United States, referred to in this section, is an officer of Department of the Treasury.

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Subsections (a), (b), (d), and (e) of this section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(D) of this title.

Pub. L. 101–624, title VIII, § 801(3), Nov. 28, 1990, 104 Stat. 3459, provided that subsecs. (a), (b), (d), and (e) of this section are inapplicable to 1991 through 1995 crops of peanuts.

Section 701(3) of Pub. L. 99–198 provided that subsecs. (a), (b), (d), and (e) of this section are inapplicable to 1986 through 1990 crops of peanuts.

Section 701(3) of Pub. L. 97–98 provided that subsecs. (a), (b), (d), and (e) of this section are inapplicable to 1982 through 1985 peanut crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1358–1, 1359a, 7301 of this title.

§ 1359a. Marketing penalties and disposition of additional peanuts

(a) Marketing penalties

(1) In general

(A) Marketing peanuts in excess of quota

The marketing of any peanuts for domestic edible use in excess of the farm poundage quota for the farm on which the peanuts are produced shall be subject to penalty at a rate equal to 140 percent of the support price for quota peanuts for the marketing year in which the marketing occurs. The penalty shall not apply to the marketing of breeder or Foundation seed peanuts grown and marketed by a publicly owned agricultural experiment station (including a State operated seed organization) under such regulations as the Secretary may prescribe.

(B) Marketing year

For purposes of this section, the marketing year for peanuts shall be the 12-month period beginning August 1 and ending July 31.

(C) Marketing additional peanuts

The marketing of any additional peanuts from a farm shall be subject to the same penalty unless the peanuts, in accordance with regulations established by the Secretary, are—

(i) placed under loan at the additional loan rate in effect for the peanuts under section 1445c–3[1] of this title and not redeemed by the producers;

(ii) marketed through an area marketing association designated pursuant to section 1445c–3(c)(1)[1] of this title; or

(iii) marketed under contracts between handlers and producers pursuant to subsection (f) of this section.

(2) Payer

The penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by the agent. The person or agent may deduct an amount equivalent to the penalty from the price paid to the producer.

(3) Failure to collect

If the person required to collect the penalty fails to collect the penalty, the person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable with such persons who failed to collect the penalty for the amount of the penalty.

(4) Application of quota

Peanuts produced in a calendar year in which farm poundage quotas are in effect for the marketing year beginning therein shall be subject to the quotas even though the peanuts are marketed prior to the date on which the marketing year begins.

(5) False information

If any producer falsely identifies, fails to accurately certify planted acres, or fails to ac-

[1] See References in Text note below.

count for the disposition of any peanuts produced on the planted acres, a quantity of peanuts equal to the greater of the farm's average or actual yield, as determined by the Secretary, times the planted acres, shall be deemed to have been marketed in violation of permissible uses of quota and additional peanuts. Any penalty payable under this paragraph shall be paid and remitted by the producer.

(6) Unintentional violations

The Secretary shall authorize, under such regulations as the Secretary shall issue, the county committees established under section 590h(b) of title 16 to waive or reduce marketing penalties provided for under this subsection in cases which the committees determine that the violations that were the basis of the penalties were unintentional or without knowledge on the part of the parties concerned.

(7) De minimis violations

Errors in weight that do not exceed one-tenth of 1 percent in the case of any one marketing document shall not be considered to be marketing violations except in cases of fraud or conspiracy.

(b) Use of quota and additional peanuts

(1) Quota peanuts

Only quota peanuts may be retained for use as seed or for other uses on a farm. When peanuts are so retained, such retention shall be considered as marketings of quota peanuts, except that the Secretary may exempt from consideration as marketings of quota peanuts seeds of peanuts for the quantity involved that are used to produce peanuts excluded under section 1359(c) of this title, are unique strains, and are not commercially available.

(2) Additional peanuts

Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use, except as provided in subsection (g) of this section.

(3) Seed

Except as provided in paragraph (1), seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

(c) Marketing peanuts with excess quantity, grade, or quality

On a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by the handler from the crop for the marketing, the handler shall be subject to a penalty equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts that the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

(d) Handling and disposal of additional peanuts

(1) In general

Except as provided in paragraph (2), the Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 1445c–3(c)(1)[1] of this title.

(2) Supervision by nonhandlers

(A) In general

Supervision of the handling and disposal of additional peanuts by a handler shall not be required under paragraph (1) if the handler agrees in writing, prior to any handling or disposal of the peanuts, to comply with regulations that the Secretary shall issue.

(B) Regulations

The regulations issued by the Secretary under subparagraph (A) shall include the following provisions:

(i) Types of exported or crushed peanuts

Handlers of shelled or milled peanuts may export or crush peanuts classified by type in all of the following quantities:

(I) Sound split kernel peanuts

Sound split kernel peanuts purchased by the handler as additional peanuts to which, under price support loan schedules, a mandated deduction with respect to the price paid to the producer of the peanuts would be applied due to the percentage of the sound splits.

(II) Sound mature kernel peanuts

Sound mature kernel peanuts (which term includes sound split kernel peanuts and sound whole kernel peanuts) in an amount equal to the poundage of the peanuts purchased by the handler as additional peanuts, less the total poundage of sound split kernel peanuts described in subclause (I).

(III) Remainder

The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts.

(ii) Documentation

Handlers shall ensure that any additional peanuts exported or crushed are evidenced by onboard bills of lading or other appropriate documentation as may be required by the Secretary, or both.

(iii) Loss of peanuts

If a handler suffers a loss of peanuts as a result of fire, flood, or any other condition beyond the control of the handler, the portion of the loss allocated to contracted additional peanuts shall not be greater than the portion of the handler's total peanut purchases for the year attributable to contracted additional peanuts purchased for export or crushing by the handler during the year.

(iv) Shrinkage allowance

(I) In general

The obligation of a handler to export or crush peanuts in quantities described

in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that the allowance shall not be less than 4 percent, except as provided in subclause (II).

(II) Common industry practices

The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.

(3) Adequate finances and facilities

A handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, with the facilities under the control and operation of the handler, to ensure the handler's compliance with the obligation to export peanuts.

(4) Commingling of like peanuts

Quota and additional peanuts of like type and segregation or quality may, under regulations issued by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

(5) Penalty

(A) In general

Except as provided in subparagraph (B), the failure by a handler to comply with regulations issued by the Secretary governing the disposition and handling of additional peanuts shall subject the handler to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts involved in the violation.

(B) Nondelivery

A handler shall not be subject to a penalty for failure to export additional peanuts if the peanuts were not delivered to the handler.

(6) Reentry of exported peanuts

(A) Penalty

If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer of the peanuts shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

(B) Records

Each person, firm, or handler who imports peanuts into the United States shall maintain such records and documents as are required by the Secretary to ensure compliance with this subsection.

(e) Special export credits

(1) In general

The Secretary shall, with due regard for the integrity of the peanut program, promulgate regulations that will permit any handler of peanuts who manufactures peanut products from domestic edible peanuts to export the products and receive credit for the fulfillment of export obligations for the peanut content of the products against which the export credits the handler may thereafter apply, up to the amount thereof, equivalent quantities of additional peanuts of the same type acquired by the handler and used in the domestic edible market. The peanuts so acquired for the domestic edible market as provided in this subsection shall be of the same crop year as the peanuts used in the manufacture of the products so exported.

(2) Certification

Under such regulations, the Secretary shall require all handlers who are peanut product manufacturers to submit annual certifications of peanut product content on a product-by-product basis. Any changes in peanut product formulas as affecting peanut content shall be recorded within 90 days of the changes. The Secretary shall conduct an annual review of the certifications. The Secretary shall pursue all available remedies with respect to persons who fail to comply with this paragraph.

(3) Records

The Secretary shall require handlers who are peanut product manufacturers to maintain and provide such documents as are necessary to ensure compliance with this subsection and to maintain the integrity of the peanut program.

(f) Contracts for purchase of additional peanuts

(1) In general

Handlers may, under such regulations as the Secretary may issue, contract with producers for the purchase of additional peanuts for crushing or export, or both.

(2) Submission to Secretary

(A) Contract deadline

Any such contract shall be completed and submitted to the Secretary (or if designated by the Secretary, the area marketing association) for approval not later than September 15 of the year in which the crop is produced.

(B) Extension of deadline

The Secretary may extend the deadline under subparagraph (A) by up to 15 days in response to damaging weather or related condition (as defined in section 112 of the Disaster Assistance Act of 1989[2] (7 U.S.C. 1421 et seq.)). The Secretary shall announce the extension no later than September 5 of the year in which the crop is produced.

(3) Form

The contract shall be executed on a form prescribed by the Secretary. The form shall require such information as the Secretary determines appropriate to ensure the proper handling of the additional peanuts, including the identity of the contracting parties, the poundage, and category of the peanuts, the disclosure of any liens, and the intended disposition of the peanuts.

[2] See References in Text note below.

(4) Information for handling and processing additional peanuts

Notwithstanding any other provision of this section, any person wishing to handle and process additional peanuts as a handler shall submit to the Secretary (or if designated by the Secretary, the area marketing association), such information as may be required under subsection (d) of this section by such date as prescribed by the Secretary so as to permit final action to be taken on the application by July 1 of each marketing year.

(5) Terms

Each such contract shall contain the final price to be paid by the handler for the peanuts involved and a specific prohibition against the disposition of the peanuts for domestic edible or seed use.

(6) Suspension of restrictions on imported peanuts

Notwithstanding any other provision of this chapter, if the President issues a proclamation under section 3601(b) of title 19 expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or under section 624 of this title temporarily suspending restrictions on the importation of peanuts, the Secretary shall, subject to such terms and conditions as the Secretary may prescribe, permit a handler, with the written consent of the producer, to purchase additional peanuts from any producer who contracted with the handler and to offer the peanuts for sale for domestic edible use.

(g) Marketing of peanuts owned or controlled by Commodity Credit Corporation

(1) In general

Subject to section 1427 of this title, any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use, in accordance with regulations issued by the Secretary, so long as doing so does not result in substantially increased cost to the Commodity Credit Corporation. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to the peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus—

(A) not less than 100 percent of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season on delivery by and with the written consent of the producer;

(B) not less than 105 percent of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year; or

(C) not less than 107 percent of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

(2) Acceptance of bids by area marketing associations

(A) In general

Except as provided in subparagraph (B), for the period from the date additional peanuts are delivered for loan to March 1 of the calendar year following the year in which the additional peanuts were harvested, the area marketing association designated pursuant to section 1445c–3(c)(1)[2] of this title shall have sole authority to accept or reject lot list bids when the sales price, as determined under this subsection, equals or exceeds the minimum price at which the Commodity Credit Corporation may sell its stocks of additional peanuts.

(B) Modification

The area marketing association and the Commodity Credit Corporation may agree to modify the authority granted by subparagraph (A) to facilitate the orderly marketing of additional peanuts.

(3) Producer marketing and expenses

Notwithstanding any other provision of this chapter, the Secretary shall, in any determination required under subsections (a)(2) and (b)(1) of section 1445c–3[2] of this title, include any additional marketing expenses required by law, excluding the amount of any assessment required under the Omnibus Budget Reconciliation Act of 1990.

(h) Administration

(1) Interest

The person liable for payment or collection of any penalty provided for in this section shall be liable also for interest thereon at a rate per annum equal to the rate per annum of interest that was charged the Commodity Credit Corporation by the Treasury of the United States on the date the penalty became due.

(2) De minimis quantity

This section shall not apply to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less if the producers who share in the peanuts produced on the farm do not share in the peanuts produced on any other farm.

(3) Liens

Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which the penalty is incurred, and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

(4) Penalties

(A) Procedures

Notwithstanding any other provision of law, the liability for and the amount of any penalty assessed under this section shall be determined in accordance with such procedures as the Secretary by regulation may prescribe. The facts constituting the basis for determining the liability for or amount of any penalty assessed under this section, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

(B) Judicial review

Nothing in this section shall be construed as prohibiting any court of competent jurisdiction from reviewing any determination made by the Secretary with respect to whether the determination was made in conformity with the applicable law and regulations.

(C) Civil penalties

All penalties imposed under this section shall for all purposes be considered civil penalties.

(5) Reduction of penalties

(A) In general

Notwithstanding any other provision of law and except as provided in subparagraph (B), the Secretary may reduce the amount of any penalty assessed against handlers under this section by any appropriate amount, including, in an appropriate case, eliminating the penalty entirely, if the Secretary finds that the violation on which the penalty is based was minor or inadvertent, and that the reduction of the penalty will not impair the operation of the peanut program.

(B) Failure to export contracted additional peanuts

The amount of any penalty imposed on a handler under this section that resulted from the failure to export or crush contracted additional peanuts shall not be reduced by the Secretary.

(i) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 2002 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358e, formerly § 359a, as added Nov. 28, 1990, Pub. L. 101–624, title VIII, § 804, 104 Stat. 3467; renumbered § 358e and amended Dec. 13, 1991, Pub. L. 102–237, title I, § 117(a), (b)(2)(D), 105 Stat. 1841; Aug. 10, 1993, Pub. L. 103–66, title I, § 1109(c)(2), 107 Stat. 326; Dec. 8, 1993, Pub. L. 103–182, title III, § 321(d)(1)(B), 107 Stat. 2110; Dec. 8, 1994, Pub. L. 103–465, title IV, § 404(e)(6), 108 Stat. 4961; Apr. 4, 1996, Pub. L. 104–127, title I, § 155(i)(1)(D), 110 Stat. 928.)

REFERENCES IN TEXT

Section 1445c–3 of this title, referred to in subsecs. (a)(1)(C)(i), (ii), (d)(1), and (g)(2)(A), (3), was repealed by Pub. L. 104–127, title I, § 171(b)(2)(E), Apr. 4, 1996, 110 Stat. 938.

Section 112 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.), referred to in subsec. (f)(2)(B), is section 112 of Pub. L. 101–82, which is set out in a note under section 1421 of this title.

The Omnibus Budget Reconciliation Act of 1990, referred to in subsec. (g)(3), is Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Pub. L. 104–127, § 155(i)(1)(D)(i), struck out ''for 1991 through 1997 crops of peanuts'' after ''peanuts'' in section catchline.

Subsec. (i). Pub. L. 104–127, § 155(i)(1)(D)(ii), substituted ''2002'' for ''1997''.

1994—Subsec. (f)(6). Pub. L. 103–465 inserted ''under section 3601(b) of title 19 expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or'' after ''issues a proclamation''.

1993—Pub. L. 103–66, § 1109(c)(2)(A), substituted ''1997'' for ''1995'' in section catchline.

Subsec. (d). Pub. L. 103–182 amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer thereof shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.''

Subsec. (i). Pub. L. 103–66, § 1109(c)(2)(B), substituted ''1997'' for ''1995''.

1991—Subsec. (b)(1). Pub. L. 102–237, § 117(b)(2)(D), made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995], except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE DATE

Section effective beginning with the 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1358–1, 7271 of this title; title 19 section 3391.

SUBPART VII—MARKETING QUOTAS—SUGAR AND CRYSTALLINE FRUCTOSE

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1359aa. Information reporting

(a) Duty of processors, refiners and manufacturers to report

(1) Processors and refiners

All sugarcane processors, cane sugar refiners, and sugar beet processors 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) Manufacturers of crystalline fructose

All manufacturers of crystalline fructose from corn (hereafter in this subpart referred to as ''crystalline fructose'') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.

(b) Duty of producers to report

The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

(c) 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.

(d) Monthly reports

Taking into consideration the information received under subsection (a) of this section, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar and composite data on distributions of crystalline fructose.

(Feb. 16, 1938, ch. 30, title III, § 359a, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3479; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(c), 105 Stat. 1830.)

CODIFICATION

Another section 359a of act Feb. 16, 1938, was renumbered section 359e and is classified to section 1359a of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237, § 111(c)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''All cane sugar refiners and sugar beet processors and all manufacturers of crystalline fructose from corn (hereafter in this subpart referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the person's importation, distribution, and stock levels of sugar or crystalline fructose, respectively.''

Subsecs. (b), (c). Pub. L. 102–237, § 111(c)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (d). Pub. L. 102–237, § 111(c)(2), (4), redesignated subsec. (c) as (d), substituted ''data on production, imports,'' for ''data on imports,'' and inserted ''composite data on distributions of'' after ''sugar and''.

EFFECTIVE DATE

Subpart effective beginning with the 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359bb. Marketing allotments for sugar and crystalline fructose

(a) Sugar estimates

(1) In general

Before the beginning of each of the fiscal years 1992 through 1998, the Secretary shall estimate—

(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

(2) Quarterly reestimates

The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

(b) Sugar allotments

(1) In general

For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C) of this section, that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 1359cc of this title for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

(2) Products

The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose 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 subpart.

(c) Crystalline fructose allotments

For any fiscal year in which the Secretary establishes allotments for the marketing of sugar under section 1359cc of this title, the Secretary shall establish for that year appropriate allotments for the marketing by manufacturers of crystalline fructose manufactured from corn, at a total level not to exceed the equivalent of 200,000 tons of sugar, raw value, during the fiscal year, in a manner that is fair, efficient, and equitable to manufacturers.

(d) Prohibitions

(1) In general

During any fiscal 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) Crystalline fructose

At any time crystalline fructose allotments are in effect for manufacturers under subsection (c) of this section, no manufacturer may market crystalline fructose in excess of the manufacturer's allotment. No restrictions or allotments shall be established on the marketings of any liquid fructose produced from corn.

(3) Civil penalty

Any processor who knowingly violates paragraph (1) or manufacturer who knowingly violates paragraph (2) 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 or crystalline fructose involved in the violation.

(4) "Market" defined

For purposes of this subpart, the term ''market'' shall mean to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process).

(Feb. 16, 1938, ch. 30, title III, § 359b, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3480; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(d), 105 Stat. 1831; Aug. 10, 1993, Pub. L. 103–66, title I, § 1107(b), 107 Stat. 324.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–66, § 1107(b)(1), substituted ''1998'' for ''1996''.

Subsec. (d)(1). Pub. L. 103–66, § 1107(b)(2)(A), added par. (1) and struck out former par. (1) which read as follows: ''SUGAR.—

''(A) EXCEEDING ALLOCATION.—At any time allotments are in effect and allocated to processors under section 1359dd of this title, the total of—

''(i) the quantity of sugar marketed by a processor, plus

''(ii) the quantity of sugar pledged as collateral by the processor for a price support loan under section 1446g of this title,

shall not exceed the quantity of the allocation of the allotment made to the processor.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

''(i) to the marketing during a fiscal year of sugar pledged in that fiscal year as collateral for a price support loan under section 1446g of this title after the sugar has been subsequently redeemed; or

''(ii) to any sale of sugar by a processor to another processor made to enable the other processor to fulfill the quantity of the allocation of the allotment made to the other processor.''

Subsec. (d)(3). Pub. L. 103–66, § 1107(b)(2)(B), inserted ''knowingly'' after ''who'' in two places.

1991—Subsec. (a). Pub. L. 102–237, § 111(d)(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

''(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

''(A) the quantity of sugar that will be consumed in the customs territory of the United States during the fiscal year (other than sugar imported for purposes other than human consumption);

''(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

''(C) the quantity of sugar that will be imported for consumption during the year (other than sugar imported for purposes other than human consumption), based on the difference between—

''(i) the quantity of estimated consumption; and

''(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

''(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, availability, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.''

Subsec. (b). Pub. L. 102–237, § 111(d)(2), added subsec. (b) and struck out former subsec. (b) which read as follows:

''(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a) of this section, that imports of sugar for consumption in the United States will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 1359cc of this title for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets in a manner that is fair, efficient, and equitable to producers, processors, and refiners, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

''(2) PRODUCTS.—The Secretary may include products of sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this subpart.''

Subsec. (d)(4). Pub. L. 102–237, § 111(d)(3), inserted ''(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)'' after ''United States''.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359jj of this title.

§ 1359cc. Establishment of marketing allotments

(a) In general

The Secretary shall establish marketing allotments for sugar for any fiscal year in which the allotments are required under section 1359bb(b) of this title 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 fiscal year (hereafter in this subpart 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 fiscal year) for the fiscal year, as determined under section 1359bb(a) of this title—

(A) 1,250,000 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 the maximum extent prac-

ticable to avoid the forfeiture of sugar to the Commodity Credit Corporation.

(c) Allotment

The overall allotment quantity for the fiscal year shall be allotted among—

(1) sugar derived from sugar beets; and

(2) sugar derived from sugarcane.

(d) Percentage factors

(1) In general

The Secretary shall establish percentage factors for the overall beet sugar and cane sugar allotments applicable for a fiscal year. The Secretary shall establish the percentage factors in a fair and equitable manner on the basis of past marketings of sugar (considering for such purposes the marketings of sugar processed from sugarcane and sugar beets of any or all of the 1985 through 1989 crops), processing and refining capacity, and the ability of processors to market the sugar covered under the allotments.

(2) Publication

The Secretary shall publish these percentage factors in the Federal Register, along with a description of the Secretary's reasons for establishing the factors, as provided in section 1359hh(c) of this title.

(e) Marketing allotment

The marketing allotment for sugar derived from sugarcane and the marketing allotment for sugar derived from sugar beets for a fiscal year, in each case, shall be a quantity equal to the product of multiplying the overall allotment quantity for the fiscal year by the percentage factor established by the Secretary under subsection (d)(1) of this section for the allotment.

(f) State cane sugar allotments

The allotment for sugar derived from sugarcane shall be further allotted, among the 5 States in the United States in which sugarcane is produced, in a fair and equitable manner on the basis of past marketings of sugar (considering for such purposes the average of marketings of sugar processed from sugarcane in the 2 highest years of production from each State from the 1985 through 1989 crops), processing capacity, and the ability of processors to market the sugar covered under the allotments.

(g) Adjustment of marketing allotments

(1) In general

The Secretary shall, based on reestimates under section 1359bb(a)(2) of this title—

(A) adjust upward or downward marketing allotments established under subsections (a) through (f) of this section in a fair and equitable manner;

(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

(C) suspend the allotments,

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 1359dd of this title, and each proportionate share established with respect to the allotment under section 1359ff(b) of this title, shall be increased or decreased by the same percentage that the allotment is increased or decreased.

(3) Reductions

Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 1446g[1] of this title, for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed.

(h) Filling cane sugar and beet sugar allotments

Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.

(Feb. 16, 1938, ch. 30, title III, § 359c, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3481; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(e), 105 Stat. 1832.)

REFERENCES IN TEXT

Section 1446g of this title, referred to in subsec. (g)(3), was repealed by Pub. L. 104–127, title I, § 171(b)(2)(H), Apr. 4, 1996, 110 Stat. 938.

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102–237, § 111(e)(1), in introductory provisions, substituted ''from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)'' for ''from the estimated sugar consumption'' and in subpar. (A) struck out ''(representing minimum imports of sugar for consumption in the United States during the fiscal year)'' after ''raw value''.

Subsec. (b)(2). Pub. L. 102–237, § 111(e)(2), substituted ''avoid the forfeiture of sugar to'' for ''prevent the accumulation of sugar acquired by''.

Subsec. (f). Pub. L. 102–237, § 111(e)(3), in heading substituted ''cane sugar allotments'' for ''sugarcane allotment'' and in text substituted ''allotted, among'' for ''allotted among'' and ''produced,'' for ''produced''.

Subsec. (g)(1). Pub. L. 102–237, § 111(e)(4)(A), added par. (1) and struck out former par. (1) which read as follows: ''The Secretary shall, based on reestimates under section 1359bb(a)(2) of this title, adjust upward or downward marketing allotments established under subsections (a) through (f) of this section in a fair and equitable manner, or suspend the allotments, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, availability, or imports.''

Subsec. (g)(3). Pub. L. 102–237, § 111(e)(4)(B), added par. (3) and struck out former par. (3) which read as follows: ''Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this paragraph—

''(A) if the quantity of the sugar marketed, including sugar pledged as collateral for a price support loan under section 1446g of this title, for the fiscal

[1] See References in Text note below.

year at the time of the reduction under the allotment by all processors covered by the allotment exceeds the reduced allotment, the quantity of the excess sugar marketed shall be deducted—

''(i) if beet sugar is involved, from the marketing allotment, if any, next established for beet sugar; or

''(ii) if cane sugar is involved, from the marketing allotment next established for the State; and

''(B) if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 1446g of this title, for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the quantity of the excess sugar marketed shall be deducted from the allocation of an allotment, if any, next established for the processor.''

Subsec. (h). Pub. L. 102–237, § 111(e)(5), added subsec. (h) and struck out former subsec. (h) ''Filling sugarcane and sugar beet allotments'' which read as follows: ''Except as otherwise provided in section 1359ee of this title, each marketing allotment of sugarcane established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment of sugar beets established under this section may only be filled with sugar processed from domestically grown sugar beets.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359bb, 1359dd, 1359ff, 1359jj of this title.

§ 1359dd. Allocation of marketing allotments

(a) In general

(1) Allocation to processors

Whenever marketing allotments are established for a fiscal year under section 1359cc of this title, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

(2) Hearing and notice

(A) Cane sugar

The Secretary shall make allocations for cane sugar after a hearing, if requested by interested parties, 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 by taking into consideration processing capacity, past marketings of sugar, and the ability of each processor to market sugar covered by that portion of the allotment allocated. Each such allocation shall be subject to adjustment under section 1359cc(g) of this title.

(B) Beet sugar

The Secretary shall make allocations for beet sugar after a hearing, if requested by interested parties, 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 by taking into consideration processing capacity, past marketings of sugar (considering for the purposes the marketings of sugar processed from sugar beets of any or all of the 1985 through 1989 crops), and the ability of each processor to market sugar covered by that portion of the allotment allocated. Each such allocation shall be subject to adjustment under section 1359cc(g) of this title.

(b) Filling cane sugar allotments

Except as otherwise provided in section 1359ee of this title, a State cane sugar allotment established under section 1359cc(f) of this title for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

(Feb. 16, 1938, ch. 30, title III, § 359d, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3483; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(f), 105 Stat. 1833.)

AMENDMENTS

1991—Subsec. (a)(2)(A), (B). Pub. L. 102–237, § 111(f)(1), substituted ''after a hearing, if requested by interested parties,'' for ''after such hearing''.

Subsec. (b). Pub. L. 102–237, § 111(f)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''Except as otherwise provided in section 1359ee of this title, the marketing allotment established for cane sugar under this subpart for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359ff, 1359gg, 1359ii, 1359jj of this title.

§ 1359ee. Reassignment of deficits

(a) Estimates of deficits

At any time allotments are in effect under this subpart, 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 fiscal 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; and

(C) if after the reassignments, 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; and

(B) if after the reassignments, 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 fiscal year shall be increased to reflect the reassignment.

(Feb. 16, 1938, ch. 30, title III, § 359e, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3484; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(g), 105 Stat. 1833.)

AMENDMENTS

1991—Pub. L. 102–237 amended section generally, substituting present provisions for provisions relating to assignment of deficits, estimates of production and marketing of sugar, and reassignment of deficits in case of undermarketing of cane and beet sugar.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359dd, 1359jj of this title.

§ 1359ff. Provisions applicable to producers

(a) Processor assurances

Whenever allotments for a fiscal year are allocated to processors under section 1359dd of this title, 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. Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the processor's allocation shall be resolved through arbitration by the Secretary on the request of either party.

(b) Proportionate shares of certain allotments

(1) In general

(A) States affected

In any case in which a State allotment is established under section 1359cc(f) of this title 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 fiscal year will be in excess of the quantity needed to enable processors to fill the allotment for the fiscal 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 fiscal 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 1359cc(g) of this title.

(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 preceding 5 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 fiscal 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 each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

(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 fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 1359hh(a) of this title.

(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 fiscal 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 fiscal 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 590h(b) of title 16 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.

(Feb. 16, 1938, ch. 30, title III, § 359f, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3484; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(h), 105 Stat. 1834; Oct. 27, 1992, Pub. L. 102–535, 106 Stat. 3526.)

AMENDMENTS

1992—Subsec. (b)(1)(B). Pub. L. 102–535, § 3(a), substituted ''production of sugarcane'' for ''production of sugar'' and inserted ''of sugar'' before period at end.

Subsec. (b)(2). Pub. L. 102–535, § 3(b), (c), substituted ''sugarcane produced by producers in the area'' for ''sugar processed from all crops by all processors'' and inserted ''of sugar'' after ''provide a normal carryover inventory'' and ''paragraph (7) and'' after ''adjustment under''.

Subsec. (b)(5)(B), (C). Pub. L. 102–535, § 1, added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: ''(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) 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 the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).''

Subsec. (b)(7). Pub. L. 102–535, § 2, added par. (7).

1991—Subsec. (b)(1)(A). Pub. L. 102–237, § 111(h)(1), substituted ''250 sugarcane producers in the State (other than Puerto Rico)'' for ''250 producers in such State''.

Subsec. (b)(2)(A). Pub. L. 102–237, § 111(h)(2), substituted ''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'' for ''establish proportionate shares for the crop of sugarcane that is harvested during''.

Subsec. (b)(3). Pub. L. 102–237, § 111(h)(3), added par. (3) and struck out former par. (3) which read as follows: ''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 at a level (not less than the average per-acre yield in the State for the preceding 5 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 deems relevant.

''(B) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allot-

ment by the per-acre yield goal for the State, as established under subparagraph (A).

''(C) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (B), by the sum of all acreage bases in the State, as determined by the Secretary, that the Secretary estimates would otherwise be harvested for the production of the crop of sugarcane.

''(D) The uniform reduction percentage for the crop, as determined under subparagraph (C), shall be applied to the acreage base for each farm covered by the State allotment to determine the farm's proportionate share for the crop.''

Subsec. (b)(4). Pub. L. 102–237, § 111(h)(3), added par. (4) and struck out former par. (4) which read as follows: ''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 crop 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 each of the 5 crop years preceding the crop year.

''(B) Acreage 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 shall be considered as harvested to sugarcane for sugar or seed for purposes of this paragraph.''

Subsec. (b)(5). Pub. L. 102–237, § 111(h)(3), added par. (5) and struck out former par. (5) which read as follows:

''(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, no producer in the State knowingly may harvest for sugar or seed an acreage of sugarcane of the crop in excess of the farm's proportionate share for the crop or otherwise violate proportionate share regulations issued by the Secretary under section 1359hh(a) of this title.

''(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) 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. The quantity of sugar involved shall be determined based on the per-acre yield goal established under paragraph (3).''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359gg, 1359ii, 1359jj of this title.

§ 1359gg. Special rules

(a) Transfer of acreage base history

For the purpose of establishing proportionate shares for sugarcane farms under section 1359ff of this title, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

(b) Preservation of acreage base history

If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 1359ff of this title, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

(c) Revisions of allocations and proportionate shares

The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 1359dd of this title, or any proportionate share established for a farm under section 1359ff of this title, on the same basis as the initial allocation or proportionate share was required to be established.

(Feb. 16, 1938, ch. 30, title III, § 359g, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3486; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(i), 105 Stat. 1835.)

AMENDMENTS

1991—Subsecs. (a) and (b). Pub. L. 102–237, § 111(i)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

''(a) TRANSFER OF PRODUCTION HISTORY.—For the purpose of establishing proportionate shares for producers under section 1359ff of this title, the Secretary, on application of any producer, may transfer the production history of land owned, operated, or controlled by the producers to any other parcels of land of the applicant.

''(b) RESERVATION OF PRODUCTION HISTORY.—If for reasons beyond the control of an owner of a farm, the owner is unable to use all or a portion of the proportionate share established for the farm under section 1359ff of this title, the Secretary may reserve for a period of not more than 3 consecutive years the production history of the farm to the extent of the proportionate share involved. The proportionate share may be redistributed to other farm owners or operators, but no production history shall accrue to the other farm owners or operators, by virtue of the redistribution of the proportionate share so redistributed.''

Subsec. (c). Pub. L. 102–237, § 111(i)(2), struck out ''hearing and'' before ''notice'' and inserted ''required to be'' after ''proportionate share was''.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359hh. Regulations; violations; publication of Secretary's determinations; jurisdiction of courts; United States attorneys

(a) Regulations

The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this subpart.

(b) Violation

Any person knowingly violating any regulation of the Secretary issued under subsection (a)

of this section shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) Publication in Federal Register

Each determination issued by the Secretary to establish, adjust, or suspend allotments under this subpart shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

(d) Jurisdiction of courts; United States attorneys

(1) Jurisdiction of courts

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subpart or any regulation issued thereunder.

(2) United States attorneys

Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this subpart. The Secretary may elect not to refer to a United States attorney any violation of this subpart or regulation when the Secretary determines that the administration and enforcement of this subpart would be adequately served by written notice or warning to any person committing the violation.

(e) Nonexclusivity of remedies

The remedies and penalties provided for in this subpart shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

(Feb. 16, 1938, ch. 30, title III, § 359h, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3486; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(j), 105 Stat. 1836.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(1) IN GENERAL.—The Secretary shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering the marketing allotment program under this subpart.

''(2) PRIOR CONSULTATIONS REQUIRED.—In addition to taking such other action as may be required under section 551 through 559 of title 5 prior to proposing any regulations under paragraph (1), the Secretary shall consult with representatives of domestic sugar processors and producers with regard to ensuring that the regulations achieve the objectives of this subpart. The results of the consultations shall be published in the Federal Register, along with the proposed regulations.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359ff, 1359jj of this title.

§ 1359ii. Appeals

(a) In general

An appeal may be taken to the Secretary from any decision under section 1359dd of this title establishing allocations of marketing allotments, or under section 1359ff of this title, by any person adversely affected by reason of any such decision.

(b) Procedure

(1) Notice of appeal

Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

(2) Hearing

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

(Feb. 16, 1938, ch. 30, title III, § 359i, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3487; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 111(k), 105 Stat. 1836.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall provide each appellant an opportunity for a hearing. The Secretary shall appoint an administrative law judge to conduct a hearing on the record on each appeal under this section. In all other respects, each appeal under this section shall be subject to sections 551 through 559, and 701 through 706, of title 5.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359jj. Administration

(a) Use of certain agencies

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

(b) Use of Commodity Credit Corporation

The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit

Corporation to carry out sections 1359aa through 1359ii of this title.

(c) "United States" and "State" defined

Notwithstanding section 1301 of this title, for purposes of this subpart, the terms ''United States'' and ''State'' means[1] the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Feb. 16, 1938, ch. 30, title III, § 359j, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 902, 104 Stat. 3488.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

PART C—ADMINISTRATIVE PROVISIONS

SUBPART I—PUBLICATION AND REVIEW OF QUOTAS

INAPPLICABILITY OF SUBPART

Subpart inapplicable to 1996 through 2002 crops of peanuts, see section 7301(a)(1)(F) of this title.

Pub. L. 101–624, title VIII, § 801(4), Nov. 28, 1990, 104 Stat. 3459, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1991 through 1995 crops of peanuts.

Pub. L. 99–198, title VII, § 701(4), Dec. 23, 1985, 99 Stat. 1430, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1986 through 1990 crops of peanuts.

Pub. L. 97–98, title VII, § 701(4), Dec. 22, 1981, 95 Stat. 1248, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1982 through 1985 crops of peanuts.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1361. Application of subpart

This subpart shall apply to the publication and review of farm marketing quotas established for tobacco, corn, wheat, cotton, peanuts, and rice, established under part B of this subchapter.

(Feb. 16, 1938, ch. 30, title III, § 361, 52 Stat. 62; Apr. 3, 1941, ch. 39, § 4, 55 Stat. 92.)

REFERENCES IN TEXT

Part B of this subchapter, referred to in text, commences with section 1311 of this title.

AMENDMENTS

1941—Act Apr. 3, 1941, inserted ''peanuts,'' after ''cotton,''.

§ 1362. Publication of marketing quota; mailing of allotment notice

All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

(Feb. 16, 1938, ch. 30, title III, § 362, 52 Stat. 62; Aug. 29, 1949, ch. 518, § 2(c), 63 Stat. 676.)

AMENDMENTS

1949—Act Aug. 29, 1949, inserted paragraph providing for mailing of notice of allotment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1363 of this title.

§ 1363. Review of quota; review committee

Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 1362 of this title, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original determination of the farm marketing quota shall be final.

(Feb. 16, 1938, ch. 30, title III, § 363, 52 Stat. 63; Apr. 12, 1951, ch. 28, § 3, 65 Stat. 31.)

AMENDMENTS

1951—Act Apr. 12, 1951, provided that the Secretary appoint a local review committee composed of 3 farmers from the same or nearby counties.

REVIEW OF 1950 COTTON FARM ACREAGE ALLOTMENT

Section 2 of act Mar. 31, 1950, ch. 81, 64 Stat. 41, provided that any farmer dissatisfied with his farm acreage allotment for the 1950 cotton crop could have such allotment reviewed in accordance with the provisions of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314b, 1314b–1, 1314b–2, 1314c, 2279a of this title.

§ 1364. Compensation of review committee

The members of the review committee shall receive as compensation for their services the same per diem as that received by the members of the committee utilized for the purposes of chapter 3B of title 16. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year.

(Feb. 16, 1938, ch. 30, title III, § 364, 52 Stat. 63.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

§ 1365. Institution of proceeding for court review of committee findings

If the farmer is dissatisfied with the determination of the review committee, he may,

[1] So in original. Probably should be ''mean''.

within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of record of the State having general jurisdiction, sitting in the county or the district in which his farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact.

(Feb. 16, 1938, ch. 30, title III, § 365, 52 Stat. 63; June 11, 1960, Pub. L. 86–507, § 1(5), 74 Stat. 200.)

AMENDMENTS

1960—Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 1366. Court review

The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. The court shall hear and determine the case upon the original record of the hearing before the review committee, and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

(Feb. 16, 1938, ch. 30, title III, § 366, 52 Stat. 63; Nov. 8, 1984, Pub. L. 98–620, title IV, § 402(6), 98 Stat. 3357.)

AMENDMENTS

1984—Pub. L. 98–620 substituted ''The court'' for ''At the earliest convenient time, the court, in term time or vacation,''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 1367. Stay of proceedings and exclusive jurisdiction

The commencement of judicial proceedings under this subpart shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this subpart to review the legal validity of a determination made by a review committee pursuant to this subpart shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this subpart.

(Feb. 16, 1938, ch. 30, title III, § 367, 52 Stat. 64.)

§ 1368. Effect of increase on other quotas

Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this subpart, the marketing quotas for other farms shall not be affected.

(Feb. 16, 1938, ch. 30, title III, § 368, 52 Stat. 64.)

SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

§ 1371. General adjustment of quotas

(a) Investigation and adjustment to maintain normal supply

If at any time the Secretary has reason to believe that in the case of cotton, rice, peanuts, or tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal the normal supply.

(b) Adjustment because of emergency or export demand

If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, rice, peanuts, or tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine

whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.

(c) Increase of farm quota on increase of national quota

In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota for the commodity shall be increased in the same ratio.

(Feb. 16, 1938, ch. 30, title III, § 371, 52 Stat. 64; Apr. 3, 1941, ch. 39, § 5, 55 Stat. 92; Aug. 28, 1954, ch. 1041, title III, § 312, 68 Stat. 904; Sept. 27, 1962, Pub. L. 87–703, title III, § 321, 76 Stat. 626.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–703, § 321(1), struck out ''corn, wheat,'' before ''cotton''.

Subsec. (b). Pub. L. 87–703, § 321(2), struck out ''any national acreage allotment for corn, or'' after ''export demand,'', ''wheat,'' before ''cotton'' and ''in order to effect the declared policy of this chapter or'' before ''to meet such emergency''.

1954—Subsec. (b). Act Aug. 28, 1954, § 312(a), inserted proviso relating to national acreage allotment for corn, and struck out corn from national marketing quota provision.

Subsec. (c). Act Aug. 28, 1954, § 312(b), inserted ''or acreage allotment'' after ''marketing quota'' wherever appearing.

Subsec. (d). Act Aug. 28, 1954, § 312(c), repealed subsec. (d) which related to the adjustment of corn storage regulations on change in marketing quotas.

1941—Subsecs. (a), (b). Act Apr. 3, 1941, inserted ''peanuts,'' after ''rice,''.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

Pub. L. 101–624, title VIII, § 801(5), Nov. 28, 1990, 104 Stat. 3459, provided that this section is inapplicable to 1991 through 1995 crops of peanuts.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF PEANUTS

Pub. L. 99–198, title VII, § 701(5), Dec. 23, 1985, 99 Stat. 1430, provided that this section is inapplicable to 1986 through 1990 crops of peanuts.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF PEANUTS

Pub. L. 97–98, title VII, § 701(5), Dec. 22, 1981, 95 Stat. 1248, provided that this section is inapplicable to 1982 through 1985 crops of peanuts.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1372. Payment, collection, and refund of penalties

(a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer.

(b) All penalties provided for in part B of this subchapter shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. Except as provided in section 1314h of this title, the amount of such penalties shall be covered into the general fund of the Treasury of the United States.

(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this chapter, the Secretary finds that such penalty was erroneously illegally, or wrongfully collected and the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into special deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) of this section by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds.

(d) No penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station. Effective with the 1978 crops, no penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.

(Feb. 16, 1938, ch. 30, title III, § 372, 52 Stat. 65; Apr. 7, 1938, ch. 107, § 11, 52 Stat. 204; July 2, 1940, ch. 521, § 6, 54 Stat. 728; Nov. 16, 1979, Pub. L. 96–113, 93 Stat. 850; Apr. 7, 1986, Pub. L. 99–272, title I, § 1106(b), 100 Stat. 91.)

REFERENCES IN TEXT

Part B of this subchapter, referred to in subsec. (b), commences with section 1311 of this title.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–272 substituted ''Except as provided in section 1314h of this title, the'' for ''The''.

1979—Subsec. (d). Pub. L. 96–113 inserted provisions respecting exemption from marketing quota penalties for State prison farms.

1940—Subsec. (c). Act July 2, 1940, substituted ''within two years'' for ''within one year'' and inserted ''and the claimant bore the burden of the payment of such penalty'' after ''wrongfully collected'' in first par. and inserted second par. authorizing regulations for farm identification, etc.

1938—Subsecs. (c), (d). Act Apr. 7, 1938, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1106(b) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

§ 1373. Reports and records

(a) Persons reporting

This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, rice, peanuts, or tobacco, and all ginners of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, rice, peanuts, or tobacco from producers, all persons engaged in the business of redrying, prizing, or stemming tobacco for producers, all producers engaged in the production of peanuts, all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subchapter. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both.

(b) Proof of acreage yield

Farmers engaged in the production of corn, wheat, cotton, rice, peanuts, or tobacco for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this subchapter.

(c) Data as confidential

All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this subchapter. 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.

(Feb. 16, 1938, ch. 30, title III, § 373, 52 Stat. 65; June 13, 1940, ch. 360, § 6, 54 Stat. 394; Apr. 3, 1941, ch. 39, §§ 6, 7, 55 Stat. 92; June 11, 1960, Pub. L. 86–507, § 1(6), 74 Stat. 200; Sept. 29, 1977, Pub. L. 95–113, title VIII, § 805, 91 Stat. 947; Dec. 22, 1981, Pub. L. 97–98, title VII, § 706, 95 Stat. 1256; July 20, 1982, Pub. L. 97–218, title III, § 304, 96 Stat. 214; Dec. 23, 1985, Pub. L. 99–198, title VII, § 706, 99 Stat. 1441; Nov. 28, 1990, Pub. L. 101–624, title VIII, § 807, 104 Stat. 3478; Apr. 4, 1996, Pub. L. 104–127, title I, § 171(a)(2), 110 Stat. 937.)

AMENDMENT OF SECTION

For termination of amendment by section 171(a)(2) of Pub. L. 104–127, see Effective and Termination Dates of 1996 Amendment note below.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 temporarily inserted ''all producers engaged in the production of peanuts,'' before ''all brokers and dealers in peanuts''. See Effective and Termination Dates of 1996 Amendment note below.

1990—Subsec. (a). Pub. L. 101–624 temporarily inserted ''all producers engaged in the production of peanuts,'' before ''all brokers and dealers in peanuts''. See Effective and Termination Dates of 1990 Amendment note below.

1985—Subsec. (a). Pub. L. 99–198 temporarily inserted ''all producers engaged in the production of peanuts,'' before ''all brokers and dealers in peanuts''. See Effective and Termination Dates of 1985 Amendment note below.

1982—Subsec. (c). Pub. L. 97–218 inserted provision that 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.

1981—Subsec. (a). Pub. L. 97–98 temporarily inserted ''all farmers engaged in the production of peanuts,'' be-

fore ''all brokers and dealers in peanuts''. See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95–113 temporarily inserted ''all farmers engaged in the production of peanuts,'' before ''and brokers and dealers in peanuts''. See Effective and Termination Dates of 1977 Amendment note below.

1960—Subsec. (a). Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

1941—Subsec. (a). Act Apr. 3, 1941, § 6, among other changes, inserted ''peanuts'' after ''rice'' wherever appearing and inserted ''all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines''.

Subsec. (b). Act Apr. 3, 1941, § 7, inserted ''peanuts,'' after ''rice,''.

1940—Subsec. (a). Act June 13, 1940, inserted all after ''$500;'' in last sentence.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT

Section 171(a)(2) of Pub. L. 104–127 provided that the amendment made by that section is effective only for 1996 through 2002 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1990 AMENDMENT

Section 807 of Pub. L. 101–624 provided that the amendment made by that section is effective only for 1991 through 1995 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 706 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 706 of Pub. L. 97–98 provided that the amendment made by that section is effective for 1982 through 1985 crop of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 805 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

§ 1374. Measurement of farms and report of plantings; remeasurement

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows (or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows) to be taken into account for classifying the acreage planted to cotton and the area skipped. For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment.

(c) The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm remaining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded.

(Feb. 16, 1938, ch. 30, title III, § 374, 52 Stat. 65; Apr. 3, 1941, ch. 39, § 8, 55 Stat. 92; Aug. 29, 1949, ch. 518, § 2(b), 63 Stat. 676; Aug. 28, 1954, ch. 1041, title III, § 311(b), 68 Stat. 904; June 30, 1960, Pub. L. 86–553, §§ 1, 2, 74 Stat. 258; Nov. 3, 1965, Pub. L. 89–321, title VII, §§ 701, 702, 79 Stat. 1210; Nov. 30, 1970, Pub. L. 91–524, title VI, § 612, as added Aug. 10, 1973, Pub. L. 93–86, § 1(25), 87 Stat. 236; Sept. 29, 1977, Pub. L. 95–113, title VI, § 605, 91 Stat. 940; Dec. 22, 1981, Pub. L. 97–98, title V, § 505, 95 Stat. 1241; Dec. 23, 1985, Pub. L. 99–198, title V, § 505, 99 Stat. 1418; Nov. 28, 1990, Pub. L. 101–624, title V, § 504, 104 Stat. 3440; Dec. 13, 1991, Pub. L. 102–237, title I, § 116(2), 105 Stat. 1840.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 inserted ''(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)'' after ''30 inch rows'' and inserted at end ''For the 1992 through 1995 crops, the rules estab-

lishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.''

1990—Subsec. (a). Pub. L. 101–624 substituted ''1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows to be taken into account for classifying the acreage planted to cotton and the area skipped'' for ''1990 crops''.

1985—Subsec. (a). Pub. L. 99–198 substituted ''1990 crops'' for ''1985 crops''.

1981—Subsec. (a). Pub. L. 97–98 substituted ''1985 crops'' for ''1981 crops''.

1977—Subsec. (a). Pub. L. 95–113 substituted ''1981'' for ''1977'' in provisions setting the last year for application of the 1971 through 1973 skiprow patterns in classifying the acreage planted to cotton.

1973—Subsec. (a). Pub. L. 91–524, § 612, as added by Pub. L. 93–86, inserted provisions relating to cotton planted in skiprow patterns.

1965—Subsec. (a). Pub. L. 89–321, § 701, removed references to county and local committees as the agent for measuring commodity or land use acreage, substituted a general reference to any agricultural commodity or land use on farms requiring ascertainment of acreage for specific reference to corn, wheat, cotton, peanuts, or rice, and substituted provisions requiring ascertainment of commodity and land use prior to harvesting and allowing a reasonable time for adjustment of acreage requirements for provisions requiring the filing of a written report by the local committee with the state committee in the event of planting in excess of farm acreage allotment.

Subsec. (c). Pub. L. 89–321, § 702, struck out sentence directing the Secretary to provide by regulation for the adjustment of planted acreage to the farm acreage allotment if the acreage determined to be planted to any basic agricultural commodity on the farm is in excess of the farm acreage allotment.

1960—Subsec. (b). Pub. L. 86–553, § 1, struck out second sentence which read as follows: ''The Secretary shall similarly provide for the remeasurement upon request by the farm operator of the acreage planted to cotton on the farm, but the operator shall be required to reimburse the local committee for the expense of such remeasurement if the planted acreage is found to be in excess of the allotted acreage'' which is now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 86–553, § 2, authorized Secretary to provide by regulations for remeasurement of acreage planted to a basic agricultural commodity and for measurement of acreage planted to such commodity remaining after adjustment of excess of measurement and remeasurement and to provide for refunds, and prescribed method of computing acreage in determining whether the applicable farm allotment has been exceeded.

1954—Subsec. (b). Act Aug. 28, 1954, struck out last sentence relating to overplanting of cotton acreage.

Subsec. (c). Act Aug. 28, 1954, added subsec. (c).

1949—Act Aug. 29, 1949, redesignated existing provisions as subsec. (a) and added subsec. (b).

1941—Act Apr. 3, 1941, inserted ''peanuts,'' after ''cotton,''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1375. Regulations

(a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, peanuts, or tobacco so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this subchapter.

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this subchapter.

(Feb. 16, 1938, ch. 30, title III, § 375, 52 Stat. 66; Apr. 3, 1941, ch. 39, § 9, 55 Stat. 92.)

AMENDMENTS

1941—Subsec. (a). Act Apr. 3, 1941, inserted ''peanuts,'' after ''rice,''.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1376. Court jurisdiction; duties of United States attorneys; remedies and penalties as additional

The several district courts of the United States are vested with jurisdiction specifically to enforce the provisions of this subchapter. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings to collect the penalties provided in this subchapter. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 1349 of this title.

(Feb. 16, 1938, ch. 30, title III, § 376, 52 Stat. 66; June 25, 1948, ch. 646, § 1, 62 Stat. 869; Apr. 11, 1964, Pub. L. 88–297, title I, § 106(2), 78 Stat. 176.)

AMENDMENTS

1964—Pub. L. 88–297 provided for application of this section to liquidated damages under section 1349 of this title.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorneys'' for ''district attorneys''. See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

CROSS REFERENCES

Jurisdiction of district courts of actions for recovery of penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314–1 of this title.

§ 1377. Preservation of unused acreage allotments

In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 1344 of

this title) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments, to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: *Provided*, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years as acreage equal to 75 per centum or more of the farm acreage allotment for such year or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.]): *Provided further*, That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

(Feb. 16, 1938, ch. 30, title III, § 377, as added May 28, 1956, ch. 327, title III, § 307, 70 Stat. 206; amended Sept. 2, 1957, Pub. L. 85–266, 71 Stat. 592; Aug. 18, 1959, Pub. L. 86–172, § 1, 73 Stat. 393; Apr. 11, 1964, Pub. L. 88–297, title I, § 106(4), 78 Stat. 177; Sept. 29, 1977, Pub. L. 95–113, title VIII, § 806, 91 Stat. 947; Apr. 4, 1996, Pub. L. 104–127, title III, § 336(b)(2)(A), 110 Stat. 1006.)

REFERENCES IN TEXT

The Soil Bank Act, referred to in text, is act May 28, 1956, ch. 327, 70 Stat. 188, as amended, which was classified to subchapters I to III of chapter 45 (§ 1801 et seq.) of this title and was repealed by Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206. For complete classification of this Act to the Code prior to its repeal, see Tables.

The Food Security Act of 1985, referred to in text, is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§ 3839aa et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127 substituted ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985'' for ''Great Plains program''.

1977—Pub. L. 95–113 temporarily inserted ''or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota'' after ''of the farm acreage allotment for such year''. See Effective and Termination Dates of 1977 Amendment note below.

1964—Pub. L. 88–297 inserted ''or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller'' in first proviso after ''75 per centum or more of the farm acreage allotment for such year'' to protect the farm base of any farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

1959—Pub. L. 86–172 excluded any allotment provided for a farm under section 1344(f)(7)(A) of this title from the entire acreage allotment for the farm which is considered as planted in the year for the purpose of establishing future acreage allotments and provided for the preservation of the current farm acreage allotment as history acreage under prescribed conditions.

1957—Pub. L. 85–266 struck out, for 1957, 1958, and 1959, requirement of filing notice of intention not to plant full acreage allotment and provided that acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 806 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of upland cotton, see section 7301(a)(1)(G) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of rice, see section 703 of Pub. L. 95–113.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 94–214, title III, § 301, Feb. 16, 1976, 90 Stat. 187, provided that: ''Section 377 of the Agricultural Adjustment Act of 1938 [this section] shall not be applicable to the 1976 and 1977 crops of rice.''

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1358, 7301 of this title.

§ 1378. Transfer of acreage allotments ensuing from agency acquisition of farmlands

(a) Allotment pool

Notwithstanding any other provision of this chapter, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for

any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and shall be available only for use in providing allotments for other farms owned by the owner so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided*, That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotments shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where subsection (c) of this section requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided*, That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further*, That if a former owner has been displaced prior to April 9, 1960, and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from April 9, 1960, such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3–year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

(b) Circumstances precluding application of provisions

The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the commodity produced on or marketed from such farm or due to a false acreage report.

(c) Time of displacement determining application of provisions

This section shall not be applicable, in the case of cotton, tobacco, and peanuts, to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for nonfarming purposes from an owner by an agency having the right of eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired.

(d), (e) Omitted

(f) Burley tobacco marketing allotment and acreage as meaning marketing quota and poundage

In applying the provisions of this section to a farm for which a tobacco marketing quota has been determined under section 1314e of this title, the words ''allotment'' and ''acreage'', wherever they appear, shall be construed to mean ''marketing quota'' and ''poundage'', respectively, as required.

(Feb. 16, 1938, ch. 30, title III, § 378, as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 995; amended Apr. 9, 1960, Pub. L. 86–423, § 1, 74 Stat. 41; May 16, 1961, Pub. L. 87–33, 75 Stat. 78; Nov. 30, 1970, Pub. L. 91–524, title IV, § 404(3), title VI, § 605(1), 84 Stat. 1366, 1378; Apr. 14, 1971, Pub. L. 92–10, § 2, 85 Stat. 27; July 26, 1972, Pub. L. 92–354, 86 Stat. 499.)

CODIFICATION

Part of subsec. (d) of section 378 of act Feb. 16, 1938, as originally enacted, is set out as a Savings Clause note below. The remainder of such subsec. (d) repealed

sections 1313(h), 1334(d), 1344(h), a prior section 1353(f), and section 1358(h) of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–354 struck out the alternative time limitation for filing applications to the county committee and substituted provisions describing allotments for provisions requiring the allotments to be comparable with allotments determined for other farms in the same area which are similar except for the past acreage of the commodity.

1971—Subsec. (f). Pub. L. 92–10 added subsec. (f).

1970—Subsec. (d). Pub. L. 91–524, § 605(1), temporarily added subsec. (d). See Effective and Termination Dates of 1970 Amendment note below.

Subsec. (e). Pub. L. 91–524, § 404(3), temporarily added subsec. (e). See Effective and Termination Dates of 1970 Amendment note below.

1961—Pub. L. 87–33 substituted provisions permitting displaced owners to release part or all of any allotment remaining in the allotment pool for reapportionment to other farms in the county having allotments for such commodity, for provisions making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments held under the lease by a displaced owner.

1960—Subsec. (a). Pub. L. 86–423 inserted sentences providing that the former owner of land shall not be considered to have been displaced during any period for which such land is leased to him if his occupancy under the lease immediately follows after his occupancy as owner, authorizing retransfer of allotments in cases where a former owner leases land formerly owned by him prior to two years from April 9, 1960, and making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments on lands held under the lease by a displaced owner which are subject to the provisions of this amendment.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

SAVINGS PROVISION

Section 378(d) of act Feb. 16, 1938, as added by Pub. L. 85–835, § 501, provided in part that: ''but any transfer or reassignment of allotment heretofore made under the provisions of these sections [former sections 1313(h), 1334(d), 1344(h), 1353(f), and 1358(h) of this title] shall remain in effect, and any displaced farm owner for whom an allotment has been established under such repealed sections [such sections] shall not be eligible for additional allotment under subsection (a) of this section [subsec. (a) of this section] because of such displacement.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1379. Reconstitution of farms

(a) Transfers from parent farm

In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;

(5) the parent farm is divided among heirs in settling an estate; or

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses, but this clause (6) shall not be applicable in the case of burley tobacco.

(b) Combination of tracts in contiguous counties

In any case in which two or more tracts of land are located in contiguous counties in the same State and are owned by the same person, the Secretary shall permit such tracts to be combined as one farm if (1) a Burley tobacco poundage quota is established for one or more of such tracts, and (2) the relevant county committees determine that such tracts will be operated as a single farming unit.

(c) Burley tobacco poundage quotas

When a farm is divided through reconstitution, the burley tobacco poundage quota which transfers with the divided land shall not be less than 1,000 pounds (except when the reconstitution of the farm is among immediate family members or pursuant to probate proceedings).

(Feb. 16, 1938, ch. 30, title III, § 379, as added Nov. 3, 1965, Pub. L. 89–321, title VII, § 707, 79 Stat. 1211; amended Nov. 30, 1970, Pub. L. 91–524, title IV, § 404(4), title VI, § 605(2), 84 Stat. 1366, 1378; Nov. 29, 1983, Pub. L. 98–180, title II, § 212(b), 97 Stat. 1149; Nov. 15, 1990, Pub. L. 101–577, § 2(c), 104 Stat. 2856; Dec. 13, 1991, Pub. L. 102–237, title I, § 116(3), 105 Stat. 1841.)

AMENDMENTS

1991—Subsecs. (a)(4) to (7), (c). Pub. L. 102–237 struck out ''or'' at end of par. (4), substituted ''; or'' for period at end of par. (5), substituted a period for ''; or'' at end of par. (6), and redesignated par. (7) as subsec. (c) and moved subsec. (c) to follow subsec. (b).

1990—Subsec. (a)(7). Pub. L. 101–577 added par. (7).

1983—Pub. L. 98–180 designated existing provisions as subsec. (a) and added subsec. (b).

1970—Pub. L. 91–524 temporarily inserted provision that term ''acreage allotments'' include the farm base acreage allotments for upland cotton and the domestic allotment for wheat. See Effective and Termination Dates of 1970 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314d of this title.

PART D—WHEAT MARKETING ALLOCATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 7301 of this title.

§ 1379a. Legislative findings

Wheat, in addition to being a basic food, is one of the great export crops of American agriculture and its production for domestic consumption and for export is necessary to the maintenance of a sound national economy and to the general welfare. The movement of wheat from producer to consumer, in the form of the commodity or any of the products thereof, is preponderantly in interstate and foreign commerce. Unreasonably low prices of wheat to producers impair their purchasing power for nonagriculture products and place them in a position of serious disparity with other industrial groups. The conditions affecting the production of wheat are such that without Federal assistance, producers cannot effectively prevent disastrously low prices for wheat. It is necessary, in order to assist wheat producers in obtaining fair prices, to regulate the price of wheat used for domestic food and for exports in the manner provided in this part.

(Feb. 16, 1938, ch. 30, title III, § 379a, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 626.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

§ 1379b. Wheat marketing allocation; amount; national allocation percentage; commercial and noncommercial wheat-producing areas

During any marketing year for which a marketing quota is in effect for wheat, beginning with the marketing year for the 1964 crop, a wheat marketing allocation program shall be in effect as provided in this part. Whenever a wheat marketing allocation program is in effect for any marketing year the Secretary shall determine (1) the wheat marketing allocation for such year which shall be the amount of wheat which in determining the national marketing quota for such marketing year he estimated would be used during such year for food products for consumption in the United States, and that portion of the amount of wheat which in determining such quota he estimated would be exported in the form of wheat or products thereof during the marketing year on which the Secretary determines that marketing certificates shall be issued to producers in order to achieve, insofar as practicable, the price and income objectives of this part, and (2) the national allocation percentage which shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by multiplying the number of acres in the farm acreage allotment for wheat by the projected farm yield, and multiplying the resulting number of bushels by the national allocation percentage. If a noncommercial wheat-producing area is established for any marketing year, farms in such area shall be given wheat marketing allocations which are determined by the Secretary to be fair and reasonable in relation to the wheat marketing allocation given producers in the commercial wheat-producing area.

(Feb. 16, 1938, ch. 30, title III, § 379b, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 626; amended Apr. 11, 1964, Pub. L. 88–297, title II, § 202(10), (11), 78 Stat. 179, 180; Nov. 3, 1965, Pub. L. 89–321, title V, §§ 502, 503, 79 Stat. 1202; Oct. 11, 1968, Pub. L. 90–559, § 1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title IV, § 402(a), (b)(B), (C), 84 Stat. 1362, as renumbered and amended Aug. 10, 1973, Pub. L. 93–86, § 1(9), 87 Stat. 225.)

AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 91–524, § 402(b)(B)(i)–(vi), as added by Pub. L. 93–86, temporarily substituted ''payments authorized by section 1445a(c) of this title'' for ''certificates on wheat'', ''wheat allotment'' for ''domestic wheat allotment'', ''thirteen and three-tenths million'' for ''13.3 million'', ''1971 crop; plus, if required by the Secretary, (ii) the acreage'' for ''1971 crop or 15 million acres in the case of the 1972 or 1973 crop, plus (ii) the acreage'', ''The Secretary is authorized for the 1974 through 1977 crops to limit'' for ''The Secretary is authorized for the 1971, 1972, and 1973 crops to limit'', ''such percentage of the acreage allotment'' for ''such percentage of the domestic wheat allotment as he determines necessary to provide an orderly transition to the program provided for under this section'', ''The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and'' for ''Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16 and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to'', and ''flaxseed, triticale, oats, rye, or other commodity'' for ''flaxseed, or other commodity''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(2). Pub. L. 91–524, § 402(b)(B)(i), as added by Pub. L. 93–86, temporarily substituted ''payments authorized by section 1445a(c) of this title'' for ''certificates authorized in subsection (b) of this section''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(3). Pub. L. 91–524, § 402(b)(B)(vii), as added by Pub. L. 93–86, temporarily inserted provisions authorizing the Secretary, in the case of programs for the 1974 through 1977 crops, to pay an appropriate share of the cost of practices designated to protect set-aside acreage against erosion, insects, weeds, and rodents and to devote such acreage to wildlife food plots or wildlife habitat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(4). Pub. L. 91–524, § 402(b)(B)(i), as added by Pub. L. 93–86, temporarily substituted ''payments authorized by section 1445a(c) of this title'' for ''marketing certificates''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (d). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86, temporarily struck out ''certificates issued and of'' before ''payments made''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (e). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86, temporarily struck out references to the issuance of certificates. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (g). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86, temporarily reenacted subsec. (g) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (i). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86, temporarily reenacted subsec. (i) without change. See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91–524, § 402(a), formerly § 402, temporarily substituted provisions covering the issuance of domestic certificates to producers and a voluntary set-aside program for wheat for provisions for a wheat marketing allocation program for the 1964 to 1970 crops. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90–559 temporarily provided for a one year extension through 1970.

1965—Pub. L. 89–321, § 502, temporarily amended section generally and, among other changes, extended the wheat marketing allocation program from 1964 and 1965 to 1966 through 1969, put a minimum limitation of five hundred million bushels on the amount of wheat included in the marketing allocation for food products for consumption in the United States, and required the cost of any domestic marketing certificates issued to producers in excess of the number of certificates acquired by processors as a result of the application of the five hundred million bushel minimum or an overestimate of the amount of wheat used during such year for food products for consumption in the United States to be borne by the Commodity Credit Corporation. See Effective and Termination Dates of 1965 Amendment note below.

Pub. L. 89–321, § 503, substituted ''projected farm yield'' for ''normal wheat for the farm as projected by the Secretary''.

1964—Pub. L. 88–297, § 202(10), temporarily struck out introductory phrase ''During any marketing year for which a marketing quota is in effect for wheat'', reduced the national allocation percentage by the expected production on the acreage allotments for farms which will not be in compliance with the requirements of the program, and struck out provisions for wheat marketing allocations to non-commercial wheat-producing areas reasonably related to such allocations to producers in commercial wheat-producing areas. See Effective and Termination Dates of 1964 Amendment note below.

Pub. L. 88–297, § 202(11), substituted ''food products for consumption in the United States'' for ''human consumption in the United States, as food, food products, and beverages, composed wholly or partly of wheat'' in second sentence.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(B) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that the amendment made by that section is effective with respect to 1974 through 1977 crops of wheat.

Section 402(b)(C) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that the amendment made by that section is effective for 1974 through 1977 crops.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 402(a), formerly section 402, of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to 1971, 1972, and 1973 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Section 502 of Pub. L. 89–321, as amended by Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to crops of wheat planted for harvest in calendar years 1966 through 1970, and marketing years for such crops.

Section 503 of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with 1970 crop.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 202(10) of Pub. L. 88–297 provided that the amendment made by that section is effective only with respect to crops planted for harvest in 1964 and 1965.

Section 202(11) of Pub. L. 88–297 provided that the amendment made by that section is effective with respect to crops planted for harvest in calendar year 1966 and any subsequent year.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99–198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Section 402(b)(A) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that: ''Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) [this section] shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection [amending this section and section 1379c of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1334 of this title.

§ 1379c. Marketing certificates

(a) Issuance; amount; reduction; sharing among producers; domestic and export certificates

The Secretary shall provide for the issuance of wheat marketing certificates for each marketing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount of wheat stored under subsection (b) of this section or to avoid or postpone a market-

ing quota penalty, which is released from storage during the marketing year on account of underplanting or underproduction, and if this limitation operates to reduce the amount of wheat marketing certificates which would otherwise be issued with respect to the farm, such reduction shall be made first from the amount of export certificates which would otherwise be issued. The Secretary shall provide for the sharing of wheat marketing certificates among producers on the farm on the basis of their respective shares in the wheat crop produced on the farm, or the proceeds therefrom; except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable. The Secretary shall, in accordance with such regulation as he may prescribe, provide for the issuance of domestic marketing certificates for the portion of the wheat marketing allocation representing wheat used for food products for consumption in the United States. The Secretary shall also provide for the issuance of export marketing certificates to eligible producers at the end of the marketing year on a pro rata basis. For such purposes, the value per bushel of export marketing certificates shall be an average of the total net proceeds from the sale of export marketing certificates during the marketing year after deducting the total amount of wheat export subsidies paid to exporters. An acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster shall be deemed by the Secretary to be an actual acreage of wheat planted for harvest for purposes of this subsection, provided such acreage is not subsequently planted to any other price supported crop for 1965. An acreage on the farm not planted to wheat because of drought, flood, or other natural disaster shall be deemed to be an actual acreage of wheat planted for harvest for purposes of this subsection provided such acreage is not subsequently planted to any crop for which there are marketing quotas or voluntary adjustment programs in effect. Producers on any farm who have planted not less than 90 per centum of the acreage of wheat required to be planted in order to earn the full amount of marketing certificates for which the farm is eligible shall be deemed to have planted the entire acreage required to be planted for that purpose.

(b) Producers eligible for certificates; storage conditions

No producer shall be eligible to receive wheat marketing certificates with respect to any farm for any marketing year in which a marketing quota penalty is assessed for any commodity on such farm or in which the farm has not complied with the land-use requirements of section 1339 of this title to the extent prescribed by the Secretary, or in which, except as the Secretary may by regulation prescribe, the producer exceeds the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm if such farm is exempt from the farm marketing quota for such crop under section 1335 of this title. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce. Notwithstanding any other provision of this chapter, the Secretary may provide that a producer shall not be eligible to receive marketing certificates, or may adjust the amount of marketing certificates to be received by the producer, with respect to any farm for any year in which a variety of wheat is planted on the farm which has been determined by the Secretary, after consultation with State Agricultural Experiment Stations, agronomists, cereal chemists and other qualified technicians, to have undesirable milling or baking qualities and has made public announcement thereof.

(c) Face value

The Secretary shall determine and proclaim for each marketing year the face value per bushel of wheat marketing certificates. The face value per bushel of domestic certificates shall be the amount by which the level of price support for wheat accompanied by domestic certificates exceeds the level of price support for wheat not accompanied by certificates (noncertificate wheat).

(d) Statement or form of certificates and transfers

Marketing certificates and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

(e) Failure of producer to comply with programs; issuance of certificates

In any case in which the failure of a producer to comply fully with the term and conditions of the programs formulated under this chapter preclude the issuance of marketing certificates, the Secretary may, nevertheless, issue such certificates in such amounts as he determines to be equitable in relation to the seriousness of the default.

(Feb. 16, 1938, ch. 30, title III, § 379c, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 627; amended Apr. 11, 1964, Pub. L. 88–297, title II, § 202(12)–(14), 78 Stat. 180, 181; Aug. 6, 1965, Pub. L. 89–112, § 3, 79 Stat. 447; Nov. 3, 1965, Pub. L. 89–321, title V, §§ 508, 510(a), 513(b), (c), 515, 517, 79 Stat. 1204–1206; June 17, 1966, Pub. L. 89–451, § 3, 80 Stat. 202; Nov. 30, 1970, Pub. L. 91–524, title IV, § 402(a), (b)(D), 84 Stat. 1364, as renumbered and amended Aug. 10, 1973, Pub. L. 93–86, § 1(9), 87 Stat. 225.)

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily substituted ref-

erences to a farm acreage allotment for references to the farm domestic allotment wherever appearing, struck out provisions limiting the impact of the section to the 1972 and 1973 crops of wheat, substituted ''estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks'' for ''estimated national yield will result in marketing certificates being issued to producers participating in the program in an amount equal to the amount of wheat which he estimates will be used for food products for consumption in the United States during the marketing year for the crop (not less than 535 million bushels)'' in the provisions covering the determination of the estimated national yield, and inserted ''(1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment)'' before ''adjusted to the extent deemed necessary''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(2). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''acreage allotment'' and ''wheat allotment''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(3). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''allotment'' and ''wheat allotment'' wherever appearing and struck out provisions establishing special requirements to be met in determining the allotment for the 1971 crop of wheat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(4), (5). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''allotment'' wherever appearing. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(6). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily reenacted par. (6) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (b)(1). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''allotment'' wherever appearing and inserted '', guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate'' after ''feed grains for which there is a set-aside program in effect''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (b)(2). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''allotment'' wherever appearing and substituted ''payments'' for ''certificates'' and ''section 1445a(c) of this title'' for ''this chapter''. See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91–524, § 402(a), formerly § 402, temporarily substituted provisions for the apportionment of the farm domestic allotment for each crop of wheat among the States for provisions covering the marketing certificates program. See Effective and Termination Dates of 1970 Amendment note below.

1966—Subsec. (a). Pub. L. 89–451 substituted ''any crop for which there are marketing quotas or voluntary adjustment programs in effect'' for ''any other income-producing crops during such year'' in penultimate sentence.

1965—Subsec. (a). Pub. L. 89–321, §§ 508, 513(b), authorized the Secretary to provide for the sharing of wheat marketing certificates among producers on a fair and equitable basis even though such basis might be other than the basis of their respective shares in the wheat crop produced on the farm, provided that acreage not planted to wheat because of drought, flood, or other natural disaster be deemed, with certain conditions, be planted for harvest for purposes of this subsection, and expanded the reference to the issuance of export marketing certificates by requiring their issuance on a pro rata basis and providing for the determination of such certificate's value per bushel.

Pub. L. 89–112 provided that the Secretary shall deem acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster, to be an actual acreage of wheat planted for harvest when that acreage was not subsequently planted to any other price supported crop for 1965.

Subsec. (b). Pub. L. 89–321, §§ 510(a), 517 substituted ''projected farm yield'' for ''normal yield of wheat per acre established for the farm'', permitted delivery to the Secretary of the wheat produced on excess acreage as an additional means of disposing of excess wheat so as to allow a producer to be deemed not to have exceeded the farm acreage allotment for wheat for purposes of this section, and provided for the disposition of wheat delivered to the Secretary and the adjustment of certificates to a producer who has produced an undesirable variety of wheat following public announcement by the Secretary of its undesirable characteristics.

Subsec. (c). Pub. L. 89–321, § 513(c), struck out provisions that the face value per bushel of export certificates shall be the amount by which the level of price support for wheat accompanied by export certificates exceeds the level of price support for noncertificate wheat.

Subsec. (e). Pub. L. 89–321, § 515, added subsec. (e).

1964—Subsec. (a). Pub. L. 88–297, § 202(12), inserted ''under subsection (b) of this section or'' after ''stored'' in second sentence, added to such sentence provision for reduction of wheat marketing certificates from amount of export certificates, and inserted provision for issuance of domestic marketing certificates for wheat used for domestic consumption and export marketing certificates for wheat used for export.

Subsec. (b). Pub. L. 88–297, § 202(13), temporarily authorized producers who exceeded their wheat allotments to store their excess wheat in accordance with regulations issued by the Secretary and be eligible for wheat marketing certificates, prohibited wheat stored under this provision from being removed from storage until a subsequent year when acreage allotment was underplanted or the production on the acreage allotment was less than normal, required the producer (for removal of the wheat contrary to these conditions) to pay an amount one and one-half times the value of the wheat marketing certificates issued with respect to the farm for the year in which the wheat on the acreage in excess of the allotment was produced, and made producers who exceeded their allotment and stored their excess wheat ineligible for diversion payments. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (c). Pub. L. 88–297, § 202(14), struck out introductory phrase ''Whenever a wheat marketing allocation program is in effect for any marketing year'' from first sentence, substituted in such sentence ''each marketing year'' for ''such marketing year'', inserted in such sentence ''wheat'' before ''marketing certificates'', substituted in second sentence ''domestic certificates shall be the amount'' for ''marketing certificates shall be equal to the amount'' and ''domestic certificates'' for ''certificates'' before ''exceeds'', and inserted to such sentence provision for face value per bushel of export certificates.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(D) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 402(a), formerly section 402, of Pub. L. 91–524 provided that the amendment made by that section is

effective only with respect to 1971, 1972, and 1973 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 508 of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1966.

Section 510(a) of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with 1966 crop.

Section 515 of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1964.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 202(13) of Pub. L. 88–297, as amended by Pub. L. 89–321, title V, § 505(2), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective with respect to crops planted for harvest in calendar years 1965 through 1970.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99–198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

REDUCTION OF WHEAT STORED BY PRODUCERS PRIOR TO 1971 CROP

Section 407 of Pub. L. 91–524, as amended by section 1(14) of Pub. L. 93–86, provided that: ''The amount of any wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsection (b) of this section], prior to the 1971 crop of wheat may be reduced by the amount by which the actual total production of the 1971, 1972, or 1973 crop on the farm is less than the number of bushels determined by multiplying three times the domestic allotment for such crop on the farm by the yield established for the farm for the purpose of issuance of domestic marketing certificates. The provisions of such section shall continue to apply to the wheat so stored to the extent not inconsistent therewith. Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsec. (b) of this section], prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445a of this title.

§ 1379d. Marketing restrictions

(a) Transfers of certificates; purchases by Commodity Credit Corporation

Marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates legally held by any person shall be purchased by Commodity Credit Corporation if tendered to the Corporation for purchase in accordance with regulations prescribed by the Secretary.

(b) Processor and exporter acquisition of domestic and export certificates; international trade, expansion; refunds or credits for certificates; exemptions from requirements

During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products shall, prior to marketing any such food product or removing such food product for sale or consumption, acquire domestic marketing certificates equivalent to the number of bushels of wheat contained in such product and (ii) all persons exporting wheat shall, prior to such export, acquire export marketing certificates equivalent to the number of bushels so exported. The cost of the export marketing certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. The Secretary may exempt from the requirements of this subsection wheat exported for donation abroad and other noncommercial exports of wheat, wheat processed for use on the farm where grown, wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donation, and wheat processed for uses determined by the Secretary to be noncommercial. Such exemptions may be made applicable with respect to any wheat processed or exported beginning July 1, 1964. There shall be exempt from the requirements of this subsection beverage distilled from wheat prior to July 1, 1964. A beverage distilled from wheat after July 1, 1964, shall be deemed to be removed for sale or consumption at the time it is placed in barrels for aging except that upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required may be deferred until such beverage is bottled for sale. Wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, shall be deemed to have been exported for purposes of this subsection when it is exported from the Canadian port. Marketing certificates shall be valid to cover only sales or removals for sale or consumption or exportations made during the marketing year with respect to which they are issued, and after being once used to cover a sale or removal for sale or consumption or export of a food product or an export of wheat shall be void and shall be disposed of in accordance with regulations prescribed by the Secretary. Notwithstanding the foregoing provisions hereof, the Secretary may require marketing certificates issued for any marketing year to be acquired to cover sales, removals, or exportations made on or after the date during the calendar year in which wheat harvested in such calendar year begins to be marketed as determined by the Secretary even

though such wheat is marketed prior to the beginning of the marketing year, and marketing certificates for such marketing year shall be valid to cover sales, removals, or exportations made on or after the date so determined by the Secretary. Whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary may require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

(c) Undertaking to secure marketing of commodity without certificate

Upon the giving of a bond or other undertaking satisfactory to the Secretary to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulations as he may prescribe, any person required to have marketing certificates in order to market or export a commodity may be permitted to market any such commodity without having first acquired marketing certificates.

(d) "Food products" defined; exemption of flour second clears

As used in this part, the term ''food products'' means flour (excluding flour second clears not used for human consumption as determined by the Secretary), semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product. The Secretary may at his election administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears. For the purpose of such refunds, the wheat equivalent of flour second clears may be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

(Feb. 16, 1938, ch. 30, title III, § 379d, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 628; amended Apr. 11, 1964, Pub. L. 88–297, title II, § 202(15)–(17), 78 Stat. 181, 182; Nov. 3, 1965, Pub. L. 89–321, title V, §§ 504(a)–(c), 513(a), 79 Stat. 1202, 1203, 1205; Nov. 30, 1970, Pub. L. 91–524, title IV, § 403(a)(1), (2), formerly § 403(1), (2), 84 Stat. 1366, as renumbered Aug. 10, 1973, Pub. L. 93–86, § 1(10), 87 Stat. 228.)

REFERENCES IN TEXT

This part, referred to in subsec. (d), commences with section 1379a of this title.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–524, temporarily struck out provision limiting the section to only those marketing years for which a wheat marketing allocation program is in effect and inserted provisions authorizing the Secretary to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974. See Effective and Termination Dates of 1970 Amendment note below.

1965—Subsec. (b). Pub. L. 89–321, §§ 504(a), (c), 513(a), among other changes, amended second sentence, and also authorized the Secretary to exempt from the requirements of this subsection wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donations, and wheat processed for uses determined by the Secretary to be noncommercial, permitted exemptions to be made applicable with respect to any wheat processed or exported beginning July 1, 1964, exempted from requirements of this subsection beverage distilled from wheat prior to July 1, 1964, required beverage distilled from wheat after July 1, 1964, to be deemed as being removed for sale or consumption at the time it is placed in barrels for aging, permitted upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required to be deferred until such beverage is bottled for sale, required wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, to be deemed as having been exported for purposes of this subsection when it is exported from the Canadian port, and, whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, empowered the Secretary to require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

Subsec. (d). Pub. L. 89–321, § 504(b), excluded four second clears not used for human consumption from term ''food products'', authorized the Secretary at his election to administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears, and permitted, for the purpose of such refunds, the wheat equivalent of flour second clears to be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

1964—Subsec. (a). Pub. L. 88–297, § 202(15), struck out provisions prohibiting persons from acquiring marketing certificates from the producer to whom such certificates were issued, unless such certificates were acquired in connection with acquisition from such producer of a number of bushels of wheat equivalent to the marketing certificates and authorizing the CCC to purchase from producers certificates not accompanied by wheat in cases where the Secretary determined that it would constitute an undue hardship to require the producer to transfer his certificates only in connection with the disposition of wheat and substituted ''by any person'' for ''by persons other than the producer to whom such certificates are issued''.

Subsec. (b). Pub. L. 88–297, § 202(16), in cl. (i) substituted ''marketing any such food product or removing such food product for sale or consumption'' for ''marketing any such product for human food in the United States'' and inserted ''domestic'' before ''marketing certificates''; in cl. (ii) struck out ''or food products'' after ''wheat'' and inserted ''export'' before ''marketing certificates''; inserted references to removals for sale or consumption in two other places and to removals in two places to make it clear that certificates were required on all wheat processed into food products whether sold, removed for sale, or removed for consumption; required the CCC to refund to the exporter such part of the cost of the certificate as the Secretary determined would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States; and authorized the Secretary to exempt from the requirement to have marketing certificates, wheat which was donated abroad and wheat processed for use on the farm where grown.

Subsec. (d). Pub. L. 88–297, § 202(17), redefined ''food products'' to mean flour, semolina, farina, bulgur, bev-

erage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product instead of any product composed wholly or partly of wheat to be used for human consumption, including beverage.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 403(a) of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 504(a) of Pub. L. 89–321 provided that the amendment made by that section is effective November 3, 1965.

Section 504(b) of Pub. L. 89–321 provided in part that: ''This subsection [amending this section] shall be effective as to products sold, or removed for sale or consumption on or after sixty days following enactment of this Act [Nov. 3, 1965], unless the Secretary shall by regulation designate an earlier effective date within such sixty-day period.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Pub. L. 101–624, title III, § 302, Nov. 28, 1990, 104 Stat. 3400, provided that: ''Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996.''

Pub. L. 99–198, title III, § 309, Dec. 23, 1985, 99 Stat. 1394, provided that: ''Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1986, through May 31, 1991.''

Pub. L. 97–98, title III, § 302, Dec. 22, 1981, 95 Stat. 1227, provided that: ''Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1982, through May 31, 1986.''

Pub. L. 95–113, title IV, § 403, Sept. 29, 1977, 91 Stat. 926, provided that: ''Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period July 1, 1973, through May 31, 1982.''

Section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, Aug. 10, 1973, 87 Stat. 228, provided in part that: ''Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379g, 1379i of this title.

§ 1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest

For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof, an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it.

(Feb. 16, 1938, ch. 30, title III, § 379e, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 628; amended Nov. 3, 1965, Pub. L. 89–321, title V, § 516, 79 Stat. 1206; Oct. 11, 1968, Pub. L. 90–559, § 1(6), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title IV, § 403(a)(3), 84 Stat. 1366.)

CODIFICATION

The sentence added by Pub. L. 89–321, as amended by Pub. L. 90–559, which directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through 1970 wheat crops to persons processing food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeded $2 per bushel, was omitted as executed.

AMENDMENTS

1970—Pub. L. 91–524, temporarily directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but directed that, in determining the cost to processors of food products, the face value be 75 cents per bushel. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90–559 provided for a one year extension of period for sale of marketing certificates, substituting ''1966 through the 1970'' for ''1966 through the 1969'' wheat crops.

1965—Pub. L. 89–321 required the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through the 1969 wheat crops to persons engaged in the processing of food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeds $2 per bushel.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 403(a) of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

§ 1379f. Conversion factors

The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.

(Feb. 16, 1938, ch. 30, title III, § 379f, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 629.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379d of this title.

§ 1379g. Authority to facilitate transition

(a) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this part. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this part from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine. Any such certificate shall be issued by Commodity Credit Corporation.

(b) Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as he determines necessary to facilitate the transition between marketing years. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and under such terms and conditions as the Secretary may by regulation provide. Any such certificate shall be issued by Commodity Credit Corporation.

(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 1379d of this title to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.

(Feb. 16, 1938, ch. 30, title III, § 379g as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 629; amended Nov. 3, 1965, Pub. L. 89–321, title V, § 504(d), 79 Stat. 1203; Nov. 30, 1970, Pub. L. 91–524, title IV, § 403(b), as added Aug. 10, 1973, Pub. L. 93–86, § 1(10), 87 Stat. 228.)

REFERENCES IN TEXT

This part, referred to in subsecs. (a) and (b), commences with section 1379a of this title.

AMENDMENTS

1973—Subsec. (c). Pub. L. 91–524, § 403(b), as added by Pub. L. 93–86, added subsec. (c).

1965—Pub. L. 89–321 designated existing provisions as subsec. (a) and added subsec. (b).

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10)

of Pub. L. 93–86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379a, 1379b, 1379d, 1379h, 1379i, 1379j of this title.

§ 1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary

This section shall apply to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this part. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.

(Feb. 16, 1938, ch. 30, title III, § 379h, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 629.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379i of this title.

§ 1379i. Penalties

(a) Forfeitures; amount; civil action

Any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of subsection (b) of section 1379d of this title shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

(b) Misdemeanors; punishment

Any person, except a producer in his capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make any report or keep any record as required by section 1379h of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

(c) Forfeiture of right to receive certificates; payment of face value

Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 1379h of this title shall, (i) forfeit any right to received marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.

(d) Felonies; punishment

Any person who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than $10,000 or imprisonment of not more than ten years, or both.

(Feb. 16, 1938, ch. 30, title III, § 379i, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 629; amended Nov. 3, 1965, Pub. L. 89–321, title V, § 510(b), 79 Stat. 1205.)

REFERENCES IN TEXT

This part, referred to in subsecs. (b) and (c), commences with section 1379a of this title.

AMENDMENTS

1965—Subsecs. (a), (b). Pub. L. 89–321 inserted ''knowingly'' after ''who'' wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 510(b) of Pub. L. 89–321 provided that the amendments made by that section are effective as of

the effective date of the original enactment of this section [section 1379i of this title].

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

CROSS REFERENCES

Fines, penalties and forfeitures—
- Generally, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.
- Jurisdiction of district courts of actions for recovery of, see section 1355 of Title 28.
- United States as party generally, see section 2401 et seq. of Title 28.
- United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

§ 1379j. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates.

(Feb. 16, 1938, ch. 30, title III, § 379j, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 324(2), 76 Stat. 630.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

PART E—RICE CERTIFICATES

AMENDMENTS

1962—Pub. L. 87–703, title III, § 324(1), Sept. 27, 1962, 76 Stat. 626, redesignated D as E.

§§ 1380a to 1380p. Omitted

CODIFICATION

Sections 1380a to 1380p of this title were effective only with respect to 1957 and 1958 rice crops.

Section 1380a, act Feb. 16, 1938, ch. 30, title III, § 380a, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208, provided legislative findings for this part.

Section 1380b, act Feb. 16, 1938, ch. 30, title III, § 380b, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208, related to effective date and termination of program.

Section 1380c, act Feb. 16, 1938, ch. 30, title III, § 380c, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208, related to determination of primary market quota for rice.

Section 1380d, act Feb. 16, 1938, ch. 30, title III, § 380d, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209, related to apportionment of the primary market quota by the Secretary among the States and among farms.

Section 1380e, act Feb. 16, 1938, ch. 30, title III, § 380e, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209, provided that a farm operator to which a primary market quota applied could have such quota reviewed.

Section 1380f, act Feb. 16, 1938, ch. 30, title III, § 380f, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209, related to price supports made available to cooperators on crops of rice.

Section 1380g, act Feb. 16, 1938, ch. 30, title III, § 380g, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209, related to certificates issued to cooperators.

Section 1380h, act Feb. 16, 1938, ch. 30, title III, § 380h, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210, related to inventory adjustment payments to persons owning rough rice located in continental United States, for purpose of facilitating transition from price support program formerly in effect.

Section 1380i, act Feb. 16, 1938, ch. 30, title III, § 380i, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210, related to set-aside of certain rough and processed rice.

Section 1380j, act Feb. 16, 1938, ch. 30, title III, § 380j, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210, related to exemptions from provisions of this part.

Section 1380k, act Feb. 16, 1938, ch. 30, title III, § 380k, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210, related to rice processing restrictions.

Section 1380*l*, act Feb. 16, 1938, ch. 30, title III, § 380*l*, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211, related to rice import restrictions.

Section 1380m, act Feb. 16, 1938, ch. 30, title III, § 380m, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211, directed the Secretary to prescribe regulations governing the issuance, redemption, acquisition, use, transfer, and disposition of certificates.

Section 1380n, act Feb. 16, 1938, ch. 30, title III, § 380n, as added May 28, 1956, ch 327, title V, § 501(3), 70 Stat. 211, related to penalties for violations of import and processing restrictions of this part or regulations prescribed by the Secretary for enforcing such provisions.

Section 1380*o*, act Feb. 16, 1938, ch. 30, title III, § 380*o*, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211, related to reports and records.

Section 1380p, act Feb. 16, 1938, ch. 30, title III, § 380p, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211, defined ''cooperator'', ''processing of rough rice'', ''processed rice'', ''United States'', ''exporter'', ''rough rice equivalent'', and ''import'', for purposes of this part.

PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

AMENDMENTS

1962—Pub. L. 87–703, title III, § 324(1), Sept. 27, 1962, 76 Stat. 626, redesignated part E as F.

1956—Act May 28, 1956, ch. 327, title V, § 501(2), 70 Stat. 208, redesignated as part E.

SUBPART I—MISCELLANEOUS

§§ 1381 to 1382. Omitted

CODIFICATION

Section 1381, acts Feb. 16, 1938, ch. 30, title III, § 381, 52 Stat. 66; Apr. 7, 1938, ch. 107, § 12, 52 Stat. 204, related to cotton price adjustment payments with respect to 1937 cotton crop, and to transfer of pledged cotton of 1937 crop to Commodity Credit Corporation. Subsec. (c) of section 1381, which authorized sale of pledged cotton by Commodity Credit Corporation, was repealed by act July 3, 1948, ch. 827, title II, § 202(b), 62 Stat. 1255.

Section 1381a, act June 16, 1938, ch. 464, title I, 52 Stat. 745, which was not a part of the Agricultural Adjustment Act of 1938, related only to payments for 1937 crops.

Section 1382, act Feb. 16, 1938, ch. 30, title III, § 382, 52 Stat. 67, required the Commodity Credit Corporation to provide for the extension, from July 31, 1938, to July 31, 1939, of 1937 cotton loan.

§ 1383. Insurance of cotton; reconcentration

(a) The Commodity Credit Corporation shall place all insurance of every nature taken out by it on cotton, and all renewals, extensions, or continuations of existing insurance, with insurance agents who are bonafide residents of and doing business in the State where the cotton is warehoused: *Provided*, That such insurance may be secured at a cost not greater than similar insurance offered on said cotton elsewhere.

(b) Cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not hereafter be reconcentrated without the written consent of the producer or borrower.

(Feb. 16, 1938, ch. 30, title III, § 383, 52 Stat. 67.)

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1383a, 1386 of this title.

§ 1383a. Written consent for reconcentration of cotton

In the administration of section 1383(b) of this title the written consent of the producer or borrower to the reconcentration of any cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not be deemed to have been given unless such consent shall have been given in an instrument made solely for that purpose. Notwithstanding any provision of any loan agreement heretofore made, no cotton held under any such agreement as security for any such loan shall be moved from one warehouse to another unless the written consent of the producer or borrower shall have been obtained in a separate instrument given solely for that purpose, as required by this section. The giving of written consent for the reconcentration of cotton shall not be made a condition upon the making of any loan hereafter made or arranged for by the Commodity Credit Corporation: *Provided, however*, That in cases where there is congestion and lack of storage facilities, and the local warehouse certifies such fact and requests the Commodity Credit Corporation to move the cotton for reconcentration to some other point, or when the Commodity Credit Corporation determines such loan cotton is improperly warehoused and subject to damage, or if uninsured, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere, and the local warehouse, after notice, declines to reduce such charges, such written consent as provided in this section need not be obtained; and consent to movement under any of the conditions of this proviso may be required in future loan agreements.

(June 16, 1938, ch. 480, 52 Stat. 762.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 1384. Repealed. Aug. 7, 1946, ch. 770, § 1(3), 60 Stat. 866

Section, act Feb. 16, 1938, ch. 30, title III, § 384, 52 Stat. 68, related to reports to Congress by the Secretary of Agriculture.

§ 1385. Finality of payments and loans; substitution of beneficiaries

The facts constituting the basis for any chapter 3B of title 16 payment, any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by

chapter 35A of this title and this chapter, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 1348 of this title.

(Feb. 16, 1938, ch. 30, title III, § 385, 52 Stat. 68; July 2, 1940, ch. 521, § 7, 54 Stat. 728; July 3, 1948, ch. 827, title II, § 207(e), 62 Stat. 1257; Sept. 27, 1962, Pub. L. 87–703, title III, § 322, 76 Stat. 626; Apr. 11, 1964, Pub. L. 88–297, title I, § 102, 78 Stat. 174; Nov. 30, 1970, Pub. L. 91–524, title IV, § 404(5), title VI, § 605(3), 84 Stat. 1366, 1378; Feb. 16, 1976, Pub. L. 94–214, title III, § 302, 90 Stat. 187; Sept. 29, 1977, Pub. L. 95–113, title IV, § 405, 91 Stat. 927; Dec. 22, 1981, Pub. L. 97–98, title XI, § 1102, 95 Stat. 1263; Dec. 23, 1985, Pub. L. 99–198, title X, § 1017(a), 99 Stat. 1459.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation Act, probably meaning the Soil Conservation and Domestic Allotment Act.

Chapter 35A [§ 1421 et seq.] of this title, referred to in text, was in the original a reference to the Agricultural Act of 1949.

AMENDMENTS

1985—Pub. L. 99–198 inserted ''extra long staple cotton,'' after ''upland cotton,'' in first sentence.

1981—Pub. L. 97–98 amended first sentence generally.

1977—Pub. L. 95–113 temporarily amended first sentence generally. See Effective and Termination Dates of 1977 Amendment note below.

1976—Pub. L. 94–214 temporarily inserted reference to payments under the rice program authorized by section 1441(g) of this title. See Effective and Termination Dates of 1976 Amendment note below.

1970—Pub. L. 91–524 temporarily inserted references to payments under the cotton set-aside program and to payments (including certificates) under the wheat and feed grain set-aside programs. See Effective and Termination Dates of 1970 Amendment note below.

1964—Pub. L. 88–297 provided for application of this section to payments in kind to equalize cost of cotton to domestic and foreign users.

1962—Pub. L. 87–703 inserted ''payment under section 1339 of this title,'' after ''parity payment,''.

1948—Act July 3, 1948, substituted ''loan, or price support operation'' for ''or loan''.

1940—Act July 2, 1940, inserted last sentence.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 405 of Pub. L. 95–113 provided that the amendment made by that section is effective only for 1978 through 1981 crops.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 302 of Pub. L. 94–214 provided that the amendment made by that section is effective only with respect to 1976 and 1977 crops of rice.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

DETERMINATION OF RATE OF LOANS, PAYMENTS, AND PURCHASES UNDER PRICE SUPPORT PROGRAM FOR 1986 THROUGH 1990 CROPS; NOTICE AND PUBLIC PARTICIPATION IN RULEMAKING NOT REQUIRED

Section 1017(b) of Pub. L. 99–198, as amended by Pub. L. 101–624, title XI, § 1144, Nov. 28, 1990, 104 Stat. 3516, provided that: ''The Secretary of Agriculture shall determine the rate of loans, payments, and purchases under a program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for any of the 1991 through 1995 crops of a commodity without regard to the requirements for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.''

§ 1386. Exemption from laws prohibiting interest of Members of Congress in contracts

The provisions of section 22 of title 41 and sections 431 and 432 of title 18 shall not be applicable to loans or payments made under this chapter (except under section 1383(a) of this title).

(Feb. 16, 1938, ch. 30, title III, § 386, 52 Stat. 68.)

CODIFICATION

''Sections 431 and 432 of title 18'' substituted in text for ''sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205)'' on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure.

WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note set out under section 713a–8 of Title 15, Commerce and Trade.

§ 1387. Photographic reproductions and maps

The Secretary may furnish reproductions of such aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices (not less than estimated cost of furnishing such reproductions) as the Secretary may determine, the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law.

(Feb. 16, 1938, ch. 30, title III, § 387, 52 Stat. 68.)

WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note set out under section 713a–8 of Title 15, Commerce and Trade.

§ 1388. Utilization of local agencies

(a) Designation of local agencies and local administrative areas

The provisions of sections 590h(b) and 590k of title 16, relating to the utilization of State, county, local committees, the extension service, and other approved agencies, and to recognition and encouragement of cooperative associations, shall apply in the administration of this chapter; and the Secretary shall, for such purposes, utilize the same local, county, and State committees as are utilized under sections 590g, 590h, 590i, and 590j to 590q of title 16. The local administrative areas designated under section 590h(b) of title 16, for the administration of programs under chapter 3B of title 16, and the local administrative areas designated for the administration of this chapter shall be the same.

(b) Payments to county committees for administrative expenses

(1) The Secretary is authorized and directed, from any funds made available for the purposes of this chapter and chapter 3B of title 16 in connection with which county committees are utilized, to make payments to county committees of farmers to cover the estimated administrative expenses incurred or to be incurred by them in cooperating in carrying out the provisions of this chapter and chapter 3B of title 16. All or part of such estimated administrative expenses of any such committee may be deducted pro rata from chapter 3B of title 16 payments, parity payments, or loans, or other payments under this chapter and chapter 3B of title 16, made unless payment of such expenses is otherwise provided by law. The Secretary may make such payments to such committees in advance of determination of performance by farmers.

(2)(A) The Secretary shall provide compensation to members of such county committees (at not less than the level in effect on December 31, 1985 for county committees) for work actually performed by such persons in cooperating in carrying out this chapter and chapter 3B of title 16 in connection with which such committees are used.

(B) The rate of compensation received by such persons for such work on December 23, 1985, shall be increased at the discretion of the Secretary.

(c) Travel expenses

(1) The Secretary shall make payments to members of local, county, and State committees to cover expenses for travel incurred by such persons (including, in the case of a member of a local or county committee, travel between the home of such member and the local county office of the Agricultural Stabilization and Conservation Service) in cooperating in carrying out this chapter and chapter 3B of title 16 in connection with which such Committees[1] are used.

(2) Such travel expenses shall be paid in the manner authorized under section 5703 of title 5 for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

(Feb. 16, 1938, ch. 30, title III, § 388, 52 Stat. 68; Dec. 23, 1985, Pub. L. 99–198, title XVII, § 1713(a), (b), 99 Stat. 1636, 1637.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

AMENDMENTS

1985—Subsecs. (b), (c). Pub. L. 99–198 designated existing provisions of subsec. (b) as par. (1), added par. (2), and added subsec. (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1713(c) of Pub. L. 99–198 provided that: ''The amendments made by this section [amending this section] shall become effective on January 1, 1986.''

§ 1389. Personnel

The Secretary is authorized and directed to provide for the execution by the Agricultural Adjustment Administration of such of the powers conferred upon him by this chapter as he deems may be appropriately exercised by such Administration; and for such purposes the provisions of law applicable to appointment and compensation of persons employed by the Agricultural Adjustment Administration shall apply.

(Feb. 16, 1938, ch. 30, title III, § 389, 52 Stat. 69.)

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of Agricultural Adjustment Administration transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note set out under section 610 of this title.

[1] So in original. Probably should not be capitalized.

Agricultural Adjustment Administration consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069.

§ 1390. Separability

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons or circumstances, and the provisions of chapter 3B of title 16, shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this chapter should be held not to be within the power of the Congress to regulate interstate and foreign commerce, such provision shall not be held invalid if it is within the power of the Congress to provide for the general welfare or any other power of the Congress. If any provision of this chapter for marketing quotas with respect to any commodity should be held invalid, no provision of this chapter for marketing quotas with respect to any other commodity shall be affected thereby. If the application of any provision for a referendum should be held invalid, the application of other provisions shall not be affected thereby. If by reason of any provision for a referendum the application of any such other provision to any person or circumstance is held invalid, the application of such other provision to other persons or circumstances shall not be affected thereby.

(Feb. 16, 1938, ch. 30, title III, § 390, 52 Stat. 69.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

SUBPART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

§ 1391. Authorization of appropriations; loans from Commodity Credit Corporation

(a) Beginning with the fiscal year ending June 30, 1938, there is hereby authorized to be appropriated, for each fiscal year for the administration of this chapter and for the making of soil conservation and other payments such sums as Congress may determine, in addition to any amount made available pursuant to section 590*o* of title 16.

(b) For the administration of this chapter (and the provisions of chapter 36 of this title) during the fiscal year ending June 30, 1938, there is hereby authorized to be made available from the funds appropriated for such fiscal year for carrying out the purposes of section 590g, 590h, 590i, and 590j to 590q of title 16, a sum not to exceed $5,000,000.

(c) During each fiscal year, beginning with the fiscal year ending June 30, 1941, the Commodity Credit Corporation is authorized and directed to loan to the Secretary such sums, not to exceed $50,000,000, as he estimates will be required during such fiscal year, to make crop insurance premium advances and to make advances pursuant to the applicable provisions of sections 590h and 590*l* of title 16, in connection with programs applicable to crops harvested in the calendar year in which such fiscal year ends, and to pay the administrative expenses of county agricultural conservation associations for the calendar year in which such fiscal year ends. The sums so loaned during any fiscal year shall be transferred to the current appropriation available for carrying out sections 590g, 590h, 590i, and 590j to 590q of title 16 and shall be repaid, with interest at a rate to be determined by the Secretary but not less than the cost of money to the Commodity Credit Corporation for a comparable period, during the succeeding fiscal year from the appropriation available for that year or from any unobligated balance of the appropriation for any other year.

(Feb. 16, 1938, ch. 30, title III, § 391, 52 Stat. 69; July 2, 1940, ch. 521, § 8, 54 Stat. 728.)

AMENDMENTS

1940—Subsec. (c). Act July 2, 1940, added subsec. (c).

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1292 of this title.

§ 1392. Administrative expenses; posting names and compensation of local employees

(a) The Secretary is authorized and directed to make such expenditures as he deems necessary to carry out the provisions of this chapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, including personal services and rents in the District of Columbia and elsewhere; traveling expenses; supplies and equipment; lawbooks, books of reference, directories, periodicals, and newspapers; and the preparation and display of exhibits, including such displays at community, county, State, interstate, and international fairs within the United States. The Secretary of the Treasury is authorized and directed upon the request of the Secretary to establish one or more separate appropriation accounts into which there shall be transferred from the respective funds available for the purposes of this chapter and chapter 3B of title 16, in connection with which personnel or other facilities of the Agricultural Adjustment Administration are utilized, proportionate amounts estimated by the Secretary to be required by the Agricultural Adjustment Administration for administrative expenses in carrying out or cooperating in carrying out any of the provisions of this chapter and chapter 3B of title 16.

(b) In the administration of this subchapter and sections 590g, 590h, 590i, and 590j to 590q of

title 16, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 3 per centum of the total amount available for such fiscal year for carrying out the purposes of this subchapter and chapter 3B of title 16, unless otherwise provided by appropriation or other law. In the administration of section 612c of this title, and sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, 624, and 671 to 673 of this title, the aggregate amount expended in any fiscal year beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 4 per centum of the total amount available for such fiscal year for carrying out the purposes of said sections, unless otherwise provided by appropriation or other law. In the event any administrative expenses of any county or local committee are deducted in any fiscal year, beginning with the fiscal year ending June 30, 1939, from chapter 3B of title 16 payments, parity payments, or loans, each farmer receiving benefits under such provisions shall be apprised of the amount or percentage deducted from such benefit payment or loan on account of such administrative expenses. The names and addresses of the members and employees of any county or local committee, and the amount of such compensation received by each of them, shall be posted annually in a conspicuous place in the area within which they are employed.

(Feb. 16, 1938, ch. 30, title III, § 392, 52 Stat. 69; Jan. 31, 1942, ch. 32, 56 Stat. 41; Aug. 3, 1956, ch. 950, § 7, 70 Stat. 1034.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

AMENDMENTS

1956—Subsec. (b). Act Aug. 3, 1956, changed the period to a comma at end of first and second sentences and inserted ''unless otherwise provided by appropriation or other law''.

1942—Subsecs. (a), (b). Act Jan. 31, 1942, among other changes, inserted reference to sections of title 16, after ''this chapter'' and ''this subchapter''.

EFFECTIVE DATE OF 1942 AMENDMENT

Act Jan. 31, 1942, provided that the amendments made by that act are effective for the fiscal year 1942 and subsequent fiscal years.

TRANSFER OF FUNCTIONS

Agricultural Adjustment Administration consolidated into Production and Marketing Administration by 1946 Reorg. Plan No. 3, eff. July 4, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note set out under section 610 of this title.

EXPENSES OF AN ADVISORY COMMITTEE ON SOIL AND WATER CONSERVATION

Act Aug. 3, 1956, ch. 934, 70 Stat. 989, provided: ''That the Secretary of Agriculture is authorized to pay expenses of an Advisory Committee on Soil and Water Conservation and related matters, but such Committee members (other than ex officio members) shall not be deemed to be employees of the United States and shall not receive compensation.''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1393. Allotment of appropriations

All funds for carrying out the provisions of this chapter shall be available for allotment to bureaus and offices of the Department, and for transfer to such other agencies of the Federal Government, and to such State agencies, as the Secretary may request to cooperate or assist in carrying out the provisions of this chapter.

(Feb. 16, 1939, ch. 30, title III, § 393, 52 Stat. 70.)

SUBCHAPTER III—COTTON POOL PARTICIPATION TRUST CERTIFICATES

§§ 1401 to 1407. Omitted

CODIFICATION

Section 1401, act Feb. 16, 1938, ch. 30, title IV, § 401, 52 Stat. 70, authorized an appropriation of $1,800,000 to accomplish the purposes declared in former provisions of this subchapter and provided for payments by Secretary of Treasury upon order of Secretary of Agriculture.

Section 1402, act Feb. 16, 1938, ch. 30, title IV, § 402, 52 Stat. 70, provided for deposit of appropriation to credit of the Secretary of Agriculture for disbursement for purposes stated in former provisions of this subchapter.

Section 1403, acts Feb. 16, 1938, ch. 30, title IV, § 403, 52 Stat. 70; Apr. 7, 1938, ch. 107, § 13, 52 Stat. 204, provided allotment of funds to manager of cotton pool for purchase of pool participation trust certificates, to be tendered by lawful holder and owner thereof on or before May 1, 1938, at rate of $1 per five-hundred-pound bale, payment of costs and expenses incident to such purchases and covering into the Treasury as miscellaneous receipts balance remaining at expiration of purchase period.

Section 1404, acts Feb. 16, 1938, ch. 30, title IV, § 404, 52 Stat. 71; Apr. 7, 1938, ch. 107, § 14, 52 Stat. 204, extended the time limit for purchase of outstanding pool participation certificates to and including July 31, 1938, authorized issuance of rules and regulations and prohibited purchases from other than record holders on or before May 1, 1938.

Section 1404a, acts June 16, 1938, ch. 464, title I, 52 Stat. 747; Apr. 5, 1939, ch. 44, 53 Stat. 572, extended the time limit for purchase of certificates to and including Sept. 30, 1939 and made the date of May 1, 1938 inapplicable.

Section 1404b, act June 16, 1938, ch. 464, title I, 52 Stat. 747, provided for issuance of regulations for payments on participation trust certificates in case of death, incompetence or disappearance of payee.

Section 1405, act Feb. 16, 1938, ch. 30, title IV, § 405, 52 Stat. 71, authorized continuance of 1933 cotton producers pool as long as necessary to effectuate purposes of former provisions of this subchapter and use of funds for payment of expenses.

Section 1406, act Feb. 16, 1938, ch. 30, title IV, § 406, 52 Stat. 71, prohibited purchase of certificates after expiration of time limit.

Section 1407, acts Feb. 16, 1938, ch. 30, title IV, § 407, 52 Stat. 71; Apr. 7, 1938, ch. 107, § 15, 52 Stat. 204, provided for payment by assignee of certificate transferred subsequent to May 1, 1937, limited to the purchase price paid by the assignee, with interest at rate of four per centum from date of purchase, not exceeding an amount of $1 per bale, payment to be based upon affidavit of assignee.

INAPPLICABILITY OF SUBCHAPTER

Subchapter, with the exception of former sections 1404a and 1404b, inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(I) of this title.

SETTLEMENT OF CERTAIN CLAIMS AND ACCOUNTS

Act June 5, 1942, ch. 349, §§ 2, 3, 56 Stat. 324, authorized Comptroller General to relieve disbursing and certifying officers from liability for payments made under former provisions of this subchapter upon certificate of Secretary of Agriculture that such payments were made in good faith, and also provided that no action should be taken to recover such excess payments, if the Secretary of Agriculture should further certify that, in view of the good faith of the parties or other circumstances of the case, such attempt to recover them would be inadvisable or inequitable.

CHAPTER 35A—PRICE SUPPORT OF AGRICULTURAL COMMODITIES

SUBCHAPTER I—GENERAL PROVISIONS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 511r, 1301, 1308–3, 1309, 1310, 1314, 1314f, 1334b, 1385, 1421a, 1433c–1, 1435, 1446c, 1745, 2279, 4608, 5671, 5822, 7202, 7301, 7502 of this title; title 15 section 3391a; title 16 sections 3811, 3821, 3832, 3834, 3837d, 3838b, 3839c; title 21 section 889; title 26 section 451; title 31 section 3902; title 42 section 1766; title 43 section 620c.

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7301 of this title.

§ 1421. Price support

(a) Source

The Secretary shall provide the price support authorized or required herein through the Commodity Credit Corporation and other means available to him.

(b) Authority of Secretary; factors considered

Except as otherwise provided in this Act, the amounts, terms, and conditions of price support operations and the extent to which such operations are carried out, shall be determined or approved by the Secretary. The following factors shall be taken into consideration in determining, in the case of any commodity for which price support is discretionary, whether a price-support operation shall be undertaken and the level of such support and, in the case of any commodity for which price support is mandatory, the level of support in excess of the minimum level prescribed for such commodity: (1) the supply of the commodity in relation to the demand therefor, (2) the price levels at which other commodities are being supported and, in the case of feed grains, the feed values of such grains in relation to corn, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price-support operation, (7) the need for offsetting temporary losses of export markets, (8) the ability and willingness of producers to keep supplies in line with demand and (9), in the case of upland cotton, changes in the cost of producing such cotton.

(c) Compliance by producer; program for diverted acres

Compliance by the producer with acreage allotments, production goals and marketing practices (including marketing quotas when authorized by law), prescribed by the Secretary, may be required as a condition of eligibility for price support. In administering any program for diverted acres the Secretary may make his regulations applicable on an appropriate geographical basis. Such regulations shall be administered (1) in semiarid or other areas where good husbandry requires maintenance of a prudent feed reserve in such manner as to permit, to the extent so required by good husbandry, the production of forage crops for storage and subsequent use either on the farm or in feeding operations of the farm operator, and (2) in areas declared to be disaster areas by the President under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], in such manner as will most quickly restore the normal pattern of their agriculture.

(d) Time of determining levels

The level of price support for any commodity shall be determined upon the basis of its parity price as of the beginning of the marketing year or season in the case of any commodity marketed on a marketing year or season basis and as of January 1 in the case of any other commodity.

(e) Processors' assurances; payment if assurances inadequate

(1) Whenever any price support or surplus removal operation for any agricultural commodity is carried out through purchases from or loans or payments to processors, the Secretary shall, to the extent practicable, obtain from the processors such assurances as he deems adequate that the producers of the agricultural commodity involved have received or will receive maximum benefits from the price support or surplus removal operation.

(2)(A) If the assurances under paragraph (1) are not adequate to cause the producers of sugar beets and sugarcane, because of the bankruptcy or other insolvency of the processor, to receive maximum benefits from the price support program within 30 days after the final settlement date provided for in the contract between such producers and processor, the Secretary, on de-

mand made by such producers and on such assurances as to nonpayment as the Secretary shall require, shall pay such producers such maximum benefits less benefits previously received by such producers.

(B) On such payment, the Secretary shall—

(i) be subrogated to all claims of such producers against the processor and other persons responsible for nonpayment; and

(ii) have authority to pursue such claims as necessary to recover the benefits not paid to the producers.

(C) The Secretary shall carry out this paragraph through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title IV, § 401, 63 Stat. 1054; Aug. 28, 1954, ch. 1041, title II, §§ 206, 207, 68 Stat. 901; Apr. 11, 1964, Pub. L. 88–297, title I, § 103(c), 78 Stat. 175; Dec. 23, 1985, Pub. L. 99–198, title IX, § 903(a), 99 Stat. 1444; Nov. 23, 1988, Pub. L. 100–707, title I, 109(a)(1), 102 Stat. 4708.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note below and Tables.

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (c), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–707, substituted ''the Disaster Relief and Emergency Assistance Act'' for ''Public Law 875, Eighty-first Congress''.

1985—Subsec. (e). Pub. L. 99–198 designated existing provisions as par. (1) and added par. (2).

1964—Subsec. (b)(9). Pub. L. 88–297 added cl. (9).

1954—Subsec. (c). Act Aug. 28, 1954, § 206, provided a program for diverted acres.

Subsec. (e). Act Aug. 28, 1954, § 207, added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–127, title II, § 263(c), Apr. 4, 1996, 110 Stat. 974, provided that: ''The amendments made by this section [repealing provisions set out as notes under this section and section 1446 of this title] shall be effective beginning with the 1996 crops of wheat, feed grains, upland cotton, and rice.''

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–237, title XI, § 1101, Dec. 13, 1991, 105 Stat. 1906, provided that:

''(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Dec. 13, 1991].

''(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) to which the amendment relates:

''(1) Section 201 [amending sections 5403, 5503, 5505, 5506, and 5822 of this title and provisions set out as a note under section 4201 of this title] (other than section 201(h) [enacting section 3125c of this title]).

''(2) Section 307 [amending section 1736bb–6 of this title].

''(3) Subsections (a) through (c), (e), (h), and (i) of section 501 [amending sections 1924, 1942, 1981, 1983, 2001, and 2006e of this title].

''(4) Subsections (a), (b), (f) through (i), and (*l*) of section 502 [amending sections 2019, 2071, 2129, 2214, 2252, 2271, and 2278a–2 of Title 12, Banks and Banking].

''(5) Section 602(c) [amending provisions set out as a note below].

''(6) Section 701 [amending sections 1926, 1926c, 1932, 1981, 1994, 2000, 2006f, 2008, 2008a, and 2008b of this title] (except as provided in subsection (c) of this section).

''(7) Section 702 [amending sections 950aaa–1, 1926–1, 1991, 1994, 2007a, and 2007c to 2007e of this title and provisions set out as a note under section 2006f of this title].

''(8) Section 703(c) [amending section 950aa of this title].

''(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act [amending sections 1926, 1932, 1981, 1994, and 2000 of this title] to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

''(d) FOOD AND NUTRITION PROGRAMS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act [amending sections 1431e, 2012, 2014, 2015, 2017, 2018, 2020, 2025, 2026, 2028, 2029, and 2031 of this title, enacting provisions set out as notes under sections 2015, 2016, 2026, and 5930 of this title, and amending provisions set out as notes under sections 612c and 2012 of this title], and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

''(2) PASS ACCOUNTS EXCLUSION.—

''(A) IN GENERAL.—The amendment made by section 903(3) of this Act [amending section 2014 of this title] shall take effect on the earlier of—

''(i) the date of enactment of this Act [Dec. 13, 1991];

''(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

''(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

''(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 [section 2020(b) of this title] (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act [amending section 2014 of this title] applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 [section 2014(d)(16) of this title] (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act [Dec. 13, 1991].

''(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 908 [907, amending section 2015 of this title] of this Act shall take effect on September 30, 1991.

''(4) RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.—The amendment made by section 911 of this Act [amending section 2022 of this title] shall take effect on the date of enactment of this Act [Dec. 13, 1991].

''(5) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 913 of this Act [amending pro-

visions set out as a note under section 2012 of this title] shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.''

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–624, title XI, § 1171, Nov. 28, 1990, 104 Stat. 3521, provided that:

''(a) IN GENERAL.—Except as otherwise specifically provided in title I through this title [see Tables for classification], such titles and the amendments made by such titles shall become effective beginning with the 1991 crop of an agricultural commodity.

''(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, title I through this title, and the amendments made by such titles, shall not affect the authority of the Secretary of Agriculture to carry out a price support or production adjustment program for any of the 1986 through 1990 crops of an agricultural commodity established under a provision of law in effect immediately before the effective date prescribed by subsection (a).''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 903(b) of Pub. L. 99–198 provided that: ''The amendments made by this section [amending this section] shall apply to nonpayments occurring after January 1, 1985.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–66, title I, § 1001(a), Aug. 10, 1993, 107 Stat. 312, provided that: ''This title [enacting sections 936c and 1314i of this title and section 460*l*–6c of Title 16, Conservation, amending sections 511r, 608b, 1308, 1308–3, 1314c, 1314e, 1358–1, 1359a, 1359bb, 1441–2, 1444–2, 1444f, 1445, 1445–1, 1445–2, 1445b–3a, 1445c–3, 1445j, 1446e, 1446f, 1446g, 1446h, 1463, 1465, 1469, 1506, 1508, 1508a, 1782, 1783, 1785, 5623, and 5641 of this title and sections 3830, 3831, and 3837 of Title 16, enacting provisions set out as notes under sections 936c, 1446e, 1506, and 5623 of this title, and amending provisions set out as notes under this section and sections 608c and 1445b–3a of this title] may be cited as the 'Agricultural Reconciliation Act of 1993'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–237, § 1, Dec. 13, 1991, 105 Stat. 1818, provided that: ''This Act [see Tables for classification] may be cited as the 'Food, Agriculture, Conservation, and Trade Act Amendments of 1991'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–624, § 1(a), Nov. 28, 1990, 104 Stat. 3359, provided that: ''This Act [see Tables for classification] may be cited as the 'Food, Agriculture, Conservation, and Trade Act of 1990'.''

Pub. L. 101–508, title I, § 1001(a), Nov. 5, 1990, 104 Stat. 1388, provided that: ''This title [enacting section 940d of this title, amending sections 511r, 1441–2, 1444–2, 1444f, 1445, 1445b–3a, 1445c–3, 1445j, 1446e, 1446f to 1446h, 1722, 1736, 1736a, 1783, 1994, 1999, and 5822 of this title and section 136a of Title 21, Food and Drugs, enacting provisions set out as notes under this section and sections 136w, 511r, and 1445b–3a of this title, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENTS

Pub. L. 101–239, title I, § 1001(a), Dec. 19, 1989, 103 Stat. 2106, provided that: ''This title [enacting section 1433d of this title, amending sections 1444e, 1445b–2, 1446, 1464, and 1736s of this title, enacting provisions set out as notes under sections 1433d, 1444e, 1445b–2, 1446, and 1464 of this title and section 2278b–9 of Title 12, Banks and Banking, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1989'.''

Pub. L. 101–82, § 1(a), Aug. 14, 1989, 103 Stat. 564, provided that: ''This Act [enacting sections 1508a and 1926a of this title and section 493 of Title 25, Indians, amending sections 1359, 1464, 1471d, and 1471e of this title and section 2202 of Title 16, Conservation, enacting provisions set out as notes under this section and sections 1359, 1464, 1926a, 1929a, 1941, and 1961 of this title and sections 2202 and 2203 of Title 16, and amending provisions set out as a note under this section] may be cited as the 'Disaster Assistance Act of 1989'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–418, title II, § 2221, Aug. 23, 1988, 102 Stat. 1336, provided that: ''This part [part II (§§ 2221–2227) of subtitle B of title II of Pub. L. 100–418, which amended section 1431 of this title and enacted provisions set out as notes under section 1431 of this title] may be cited as the 'American Aid to Poland Act of 1988'.''

Pub. L. 100–387, § 1, Aug. 11, 1988, 102 Stat. 924, provided: ''That this Act [see Tables for classification] may be cited as the 'Disaster Assistance Act of 1988'.''

Section 601 of title VI of act Oct. 31, 1949, ch. 792, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 925, provided that: ''This title [enacting sections 1471 to 1471j of this title] may be cited as the 'Emergency Livestock Feed Assistance Act of 1988'.''

SHORT TITLE OF 1987 AMENDMENTS

Pub. L. 100–203, title I, § 1001(a), Dec. 22, 1987, 101 Stat. 1330, provided that: ''This title [enacting sections 940b, 940c, 944a, 1308–1 to 1308–3, and 2030 of this title, amending sections 608c, 946, 948, 1308, 1308–1, 1314b, 1314c, 1423, 1431, 1441–1, 1444, 1444–1, 1444e, 1445, 1445b–2, 1445b–3, 1445c–2, 1446, 1466, 1782, 1932, and 2371 of this title and section 713a–11 of Title 15, Commerce and Trade, enacting provisions set out as notes under sections 936a, 948, 1308 to 1308–3, 1441–1, 1444, 1444–1, 1444e, 1445, 1445b–2, 1445b–3, 1445c–2, 1446, 1466, and 1508 of this title, sections 713a–11 and 714b of Title 15, and section 7545 of Title 42, The Public Health and Welfare, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1987'.''

Pub. L. 100–45, § 1, May 27, 1987, 101 Stat. 318, provided: ''That this Act [amending sections 1441–1, 1444–1, 1444e, 1445b–3, and 1446 of this title and section 701n of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under sections 1441–1, 1444–1, 1444e, 1445b–3, and 1446 of this title and section 3835 of Title 16, Conservation] may be cited as the 'Farm Disaster Assistance Act of 1987'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–258, § 1, Apr. 10, 1984, 98 Stat. 130, provided: ''That this Act [enacting section 1981b of this title, amending sections 1431, 1441, 1444, 1444d, 1445b–1, 1943, 1946, 1961, 1964, 1986, and 1994 of this title, enacting provisions set out as notes under sections 1921, 1961, and 1981 of this title, and amending provisions set out as a note preceding section 1961 of this title] may be cited as the 'Agricultural Programs Adjustment Act of 1984'.''

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98–180, § 1, Nov. 29, 1983, 97 Stat. 1128, provided: ''That this Act [enacting sections 511r, 4501 to 4514, and 4531 to 4538 of this title, amending section 608c, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1379, 1445, 1445–1, 1445–2, and 1446 of this title, and enacting provisions set out as notes under this section and sections 1314b, 1314c, 1314e, 1427, 1445, 1446, and 1727g of this title] may be cited as the 'Dairy and Tobacco Adjustment Act of 1983'.''

Pub. L. 98–180, title I, § 101, Nov. 29, 1983, 97 Stat. 1128, provided that: ''This title [enacting sections 4501 to 4513 of this title, amending section 1446 of this title, and enacting provisions set out as notes under section 1446 of this title] may be cited as the 'Dairy Production Stabilization Act of 1983'.''

Pub. L. 98–180, title II, § 201, Nov. 29, 1983, 97 Stat. 1143, provided that: ''This title [enacting section 511r of this

title, amending sections 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1379, 1445, 1445–1, and 1445–2 of this title, and enacting provisions set out as notes under sections 1314b, 1314c, 1314e, and 1445 of this title] may be cited as the 'Tobacco Adjustment Act of 1983'.''

Pub. L. 98–88, § 1, Aug. 26, 1983, 97 Stat. 494, provided: ''That this Act [amending sections 1308, 1427, 1441, and 1444 of this title, repealing section 1347 of this title, and enacting provisions set out as notes under sections 1342, 1347, and 1444 of this title] may be cited as the 'Extra Long Staple Cotton Act of 1983'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–358, § 1, Oct. 21, 1982, 96 Stat. 1714, provided: ''That this Act [enacting section 1433b of this title] may be cited as the 'Surplus Agricultural Commodities Disposal Act of 1982'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–213, § 1, Mar. 18, 1980, 94 Stat. 119, provided: ''That this Act [amending sections 1308, 1309, 1441, 1444, 1444c, and 1445b of this title, and enacting provisions set out as notes under sections 1308 and 1309 of this title] may be cited as the 'Agricultural Adjustment Act of 1980'.''

SHORT TITLE

Section 1 of act Oct. 31, 1949, provided that: ''This Act [enacting this section and sections 1422 to 1431, 1432, 1433, 1441, 1443 to 1445a, 1446, 1446a, 1446d, 1447 to 1449, and 1461 to 1468 of this title, amending sections 612c, 1301, 1322, 1328, 1343, 1344, 1345, and 1353 to 1356 of this title, and repealing section 1302 of this title; amending sections 1134c and 1134j of Title 12, Banks and Banking, section 713a–4 of Title 15, Commerce and Trade, section 410 of Title 42, The Public Health and Welfare] may be cited as the 'Agricultural Act of 1949'.''

REPEALS

Section 414 of act Oct. 31, 1949, provided in part that: ''any provision of law in conflict with the provisions of this Act [see Short Title note set out above] are hereby repealed.''

SEPARABILITY PROVISION FOR PUB. L. 101–624

Pub. L. 101–624, title XXV, § 2518, formerly § 2519, Nov. 28, 1990, 104 Stat. 4078; renumbered § 2518 by Pub. L. 104–66, title I, § 1101(h), Dec. 21, 1995, 109 Stat. 710, provided that: ''If any provision of this Act [see Short Title of 1990 Amendment note above] or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.''

SEPARABILITY PROVISION FOR PUB. L. 98–180

Pub. L. 98–180, title III, § 305, Nov. 29, 1983, 97 Stat. 1152, provided that: ''Except as otherwise provided in this Act [see Short Title of 1983 Amendment note above], if any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.''

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

PROGRAMS FOR FARMERS AND RANCHERS WHO WERE ACTIVATED RESERVISTS DURING PERSIAN GULF CONFLICT

Pub. L. 102–25, title III, §§ 381–388, Apr. 6, 1991, 105 Stat. 95–98, established programs for farmers and ranchers who were activated reservists during Persian Gulf conflict to provide for protection of producer's crop acreage base for any program crop, waiver of minimum planting requirement, temporary waiver of conservation requirements, relief for borrowers under farm credit provisions, and authority of a spouse or close relative to participate in programs administered by Secretary of Agriculture on behalf of activated reservists.

SURVEY OF PROGRAM PARTICIPANTS

Pub. L. 101–624, title XI, § 1148, Nov. 28, 1990, 104 Stat. 3517, directed Secretary of Agriculture to require producers, during sign-up period for commodity programs under section 1421 et seq. of this title in the 1992 calendar year, to complete survey regarding preference of producers, either to increase efficiency of their farming operation or to assist in meeting conservation requirements for farm, for redistribution of any crop acreage bases on each producer's farm, to compile and analyze data collected from survey to determine potential increases and decreases in State, regional, and national acreage that would be planted to various program crops, potential commodity program costs or savings, and potential impact of such redistribution on competitiveness of United States agriculture in world markets, and, not later than Jan. 31, 1993, to submit to Congress results of survey.

OPTIONS PILOT PROGRAM

Pub. L. 101–624, title XI, subtitle E, Nov. 28, 1990, 104 Stat. 3518, as amended by Pub. L. 102–237, title I, § 114(a)(2), Dec. 13, 1991, 105 Stat. 1838, known as Options Pilot Program Act of 1990, authorized Secretary of Agriculture to conduct pilot program for each of the 1991 through 1995 crops of corn and for each of the 1993 through 1995 crops of wheat and soybeans, to determine whether regulated agricultural commodity options trading could be used by producers to obtain protection from fluctuations in market prices of commodities produced and impact of such trading on prices of the commodities, authorized terms and conditions for participation in pilot program, provided for consultation with representatives of commodity futures trading industry, and provided that the pilot program was to be carried out by and through the Commodity Credit Corporation, prior to repeal by Pub. L. 104–127, title I, § 191(i), Apr. 4, 1996, 110 Stat. 942.

HURRICANE HUGO FORESTRY ASSISTANCE; COST-SHARE ASSISTANCE

Pub. L. 101–624, title XXII, § 2235(b), Nov. 28, 1990, 104 Stat. 3960, directed Secretary of Agriculture to develop and implement cost-share program to provide financial assistance to owners of private timber stands that were damaged in 1989 by Hurricane Hugo.

APPROPRIATIONS FOR FORESTRY ASSISTANCE AND DOUBLE CROPPING ON DISASTER AREAS

Pub. L. 101–624, title XXII, § 2235(c), Nov. 28, 1990, 104 Stat. 3961, provided that benefits or assistance provided under section 2235 of Pub. L. 101–624 or amendments made by such that (enacting provisions set out above and amending provisions set out below) were to be provided only to extent provided for in advance by appropriation acts and authorized appropriations for fiscal years 1991 through 1995.

SCARCE FEDERAL RESOURCES

Pub. L. 101–624, title XXV, § 2515, Nov. 28, 1990, 104 Stat. 4075, authorized Secretary of Agriculture, after

concurrence of certain Members of Congress, to rank by priority studies or reports authorized by Pub. L. 101–624 and determine which of those studies or reports was to be completed, but directed Secretary to complete at least 12 of the studies or reports.

RECORDKEEPING IMPROVEMENT

Pub. L. 101–624, title XXV, § 2516, Nov. 28, 1990, 104 Stat. 4075, which provided that section could be cited as ''Agricultural Program Reporting and Recordkeeping Improvement Act of 1990'', directed Secretary of Agriculture, not later than 240 days after Nov. 28, 1990, to submit to Congress a report containing specific proposals for reducing and simplifying recordkeeping and other paperwork required of producers participating in programs administered by Secretary and directed Secretary to take appropriate action to integrate various data bases of Department relating to agricultural program data, and to facilitate sharing of relevant data among various agencies of Department.

READJUSTMENT OF SUPPORT LEVELS

Pub. L. 101–508, title I, § 1302, Nov. 5, 1990, 104 Stat. 1388–12, as amended by Pub. L. 103–66, title I, § 1301(b), Aug. 10, 1993, 107 Stat. 330, provided that, if by June 30, 1992, and by June 30, 1993, the United States had not entered into agricultural trade agreement in Uruguay Round of multilateral trade negotiations under General Agreement on Tariffs and Trade (GATT) the Secretary of Agriculture was to reconsider and adjust agricultural acreage limitation and price support and production adjustment programs and export promotion levels, as appropriate to protect interests of American agricultural producers and ensure international competitiveness of United States agriculture and that such provisions were to cease to be effective if President certified to Congress that failure to enter into such agreement was result in whole or in part of provisions of 19 U.S.C. 2191, or essentially similar provisions, not applying or in effect not applying during period ending May 31, 1991 (or during period June 1, 1991, through May 31, 1993, if condition of 19 U.S.C. 2903(b)(1)(B)(i) was satisfied) to implementing bills submitted with respect to such an agreement entered into during applicable period under 19 U.S.C. 2902(b), prior to repeal by Pub. L. 104–127, title II, § 263(a), Apr. 4, 1996, 110 Stat. 974.

REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS

Pub. L. 101–220, § 14, Dec. 12, 1989, 103 Stat. 1885, provided that effective only for the 1988 crops of wheat, feed grains, upland cotton, and rice, produced by producers that qualified for assistance under section 201(a) of Pub. L. 100–387 or section 101(a) of Pub. L. 101–82 (set out below), if the Secretary of Agriculture determines that any portion of the advance deficiency payment made to producers for such crop under section 1445b–2 of this title had to be refunded, such refund could not be required to be made prior to July 31, 1990.

PILOT PROJECT ON CLEAN GRAIN PREMIUMS

Pub. L. 100–518, § 3, Oct. 24, 1988, 102 Stat. 2587, directed Secretary of Agriculture to conduct study of schedule of premiums and discounts applied to loans made in accordance with this chapter to determine how premiums and discounts could be used to encourage production, marketing, and exporting of high quality, clean grain, to submit, not later than May 1, 1989, to Congress report on results of such study, to include recommendations with respect to schedule of premiums and discounts in such report, and to establish pilot project for 1989 crops of wheat, soybeans, and feed grains to test effectiveness of such recommendations, and to submit report describing result of project, not later than 180 days after end of 1989 marketing year for feed grains.

EMERGENCY CROP LOSS ASSISTANCE

Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1712, as amended by Pub. L. 102–368, title VI, Sept. 23, 1992, 106 Stat. 1130, appropriated an additional $1,750,000,000, to remain available until expended, for losses associated with 1990 crops as authorized by Pub. L. 101–624, formerly set out below, and for losses associated with 1991 and 1992 crops under same terms and conditions.

Pub. L. 101–624, title XXII, §§ 2241–2272, Nov. 28, 1990, 104 Stat. 3962–3977, as amended by Pub. L. 101–508, title I, § 1204(d), Nov. 5, 1990, 104 Stat. 1388–12; Pub. L. 102–237, title I, § 114(a)(4)–(16), Dec. 13, 1991, 105 Stat. 1838, 1839, related to emergency crop loss assistance for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, and rice, for orchards, and for forest crops, prior to repeal by Pub. L. 103–354, title I, § 119(c), Oct. 13, 1994, 108 Stat. 3208. Similar provisions for prior crop years were contained in:

Pub. L. 101–82, title I, Aug. 14, 1989, 103 Stat. 565, as amended by Pub. L. 101–134, § 1, Oct. 30, 1989, 103 Stat. 780; Pub. L. 101–220, § 9(a)–(c), Dec. 12, 1989, 103 Stat. 1882; Pub. L. 101–624, title XXII, §§ 2231, 2232, 2235(a), Nov. 28, 1990, 104 Stat. 3958, 3959; Pub. L. 102–237, title VI, § 602(a), (c), Dec. 13, 1991, 105 Stat. 1878.

Pub. L. 100–387, title II, Aug. 11, 1988, 102 Stat. 933, as amended by Pub. L. 101–82, title VI, § 602, Aug. 14, 1989, 103 Stat. 587; Pub. L. 101–239, title I, § 1004(a), Dec. 19, 1989, 103 Stat. 2108.

SPECIAL STUDY AND PILOT PROJECTS ON FUTURES TRADING

Pub. L. 99–198, title XVII, subtitle E, §§ 1741–1743, Dec. 23, 1985, 99 Stat. 1643, 1644, as amended by Pub. L. 100–203, title I, § 1502, Dec. 22, 1987, 101 Stat. 1330–27, directed Secretary of Agriculture to conduct study to determine manner in which commodity futures markets and commodity options markets might be used by producers of commodities traded on such markets to provide price stability and income protection, extent of price stability and income protection producers might reasonably expect to receive from such participation, and Federal budgetary impact of such participation compared with cost of applicable established price support programs, to report results of study to Congress on or before Dec. 31, 1989, and in connection with such study, to conduct pilot program with respect to crops of wheat, feed grains, soybean, and cotton.

FARM INCOME PROTECTION INSURANCE PROGRAM TASK FORCE, STUDY, AND REPORT

Pub. L. 97–98, title XI, § 1112, Dec. 22, 1981, 95 Stat. 1267, directed Secretary of Agriculture to appoint a special task force to study and report to Congress, not later than 18 months after Dec. 22, 1981, as to whether farm income protection insurance would provide the basis for an acceptable alternative to the commodity price support, income maintenance, and disaster assistance programs currently administered by the Department of Agriculture for the benefit of farmers.

STUDIES IN RICE PRICE SUPPORT; REPORT TO CONGRESS; TERMINATION DATE

Section 315 of act Aug. 28, 1954, directed Secretary of Agriculture to study various two-price systems of price support and marketing which could be made applicable to rice and to submit to Congress on or before Mar. 1, 1955, a detailed report thereon.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1425, 1428, 1444, 1444b, 1445a, 1448 of this title.

§ 1421a. Financial impact study

(a) Study

The Secretary of Agriculture shall conduct an annual study of the financial impact of the support levels established and announced by the Secretary under programs contained in the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] (hereafter in this section referred to as ''programs''),

including a study of the effect of the support levels on the ability of producers to meet their financial obligations (with special emphasis on borrowers from the Farmers Home Administration and the Farm Credit System).

(b) Report

The Secretary shall annually prepare a report containing the results of the study and submit the report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, not later than the date of the final announcement for the programs by the Secretary for any 1 year.

(c) Informational purposes

The study under this section (including the study of the effect of the support levels on the ability of producers to meet their financial obligations) shall be only for informational purposes and for Congressional oversight and shall not give rise to any cause of action, be a basis for, or be used as evidence in support of, any claim or right of any person, including farmers and borrowers, in any administrative or judicial proceeding.

(Pub. L. 101–624, title XI, § 1147, Nov. 28, 1990, 104 Stat. 3516.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

§ 1421b. Costs of production

Congress finds that, to improve the accuracy of commodity program benefit forecasts, the Secretary of Agriculture should designate a single organization to manage its commodity program forecasting and establish a quality control program to—

(1) systematically identify the source of forecasting errors;

(2) maintain records of data used for supply and demand forecasts;

(3) document its forecasting methods; and

(4) correct weaknesses in its various forecasting components.

(Pub. L. 101–624, title XXV, § 2512, Nov. 28, 1990, 104 Stat. 4073; Pub. L. 104–66, title I, § 1011(b), Dec. 21, 1995, 109 Stat. 709.)

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1995—Pub. L. 104–66 struck out subsec. (a) designation and heading ''Improving accuracy of commodity program budget forecasts'' before ''Congress finds that'', and struck out subsec. (b) ''Return on assets'' which read as follows: ''The Secretary of Agriculture shall annually publish a report analyzing the return on assets resulting from the production of upland cotton, rice, wheat, corn, oats, barley, grain sorghum, soybeans, peanuts, sugar from sugar beets, and raw sugar from sugar cane. In conducting this analysis, the Secretary shall consider returns from agricultural price support programs, the effects of agricultural price support programs on cost of production, the factors currently used in Department of Agriculture cost of production data, current value of land, and any other information that he considers necessary to reflect accurately return on the production of such crops.''

§ 1421c. Repealed. Pub. L. 104–66, title I, § 1011(c), Dec. 21, 1995, 109 Stat. 709

Section, Pub. L. 101–624, title XXV, § 2513, Nov. 28, 1990, 104 Stat. 4074, directed Secretary of Agriculture to develop system for informing consumers of farm value of agricultural products and to submit annual reports on such information to Congress.

§ 1421d. Commodity reports

(a) Crop reports

The Secretary of Agriculture (hereafter in this section referred to as the ''Secretary'') shall gather data from producers to be used to develop crop reports to be distributed by the Secretary during the growing season. The report shall contain statements of the conditions of those crops by State, with such explanations, comparisons, and information as may be useful for illustrating such reports.

(b) Special reports

(1) In general

In addition to the reports compiled pursuant to subsection (a) of this section, the Secretary shall annually survey producers for information for reports regarding supply, acreage, production, disposition, and prices for the following commodities as determined by the Secretary:

(A) 25 fresh market vegetables;

(B) 3 processing vegetables;

(C) 6 fruits and nuts;

(D) 17 forage and turf seeds;

(E) 50 vegetable seeds; and

(F) maple syrup.

(2) Administrative

The Secretary shall annually prepare a report containing results of the surveys described in paragraph (1) in such States as determined by the Secretary. Such reports shall be submitted to and officially approved by the Secretary of Agriculture before being issued or published.

(c) Tree inventories

The Secretary shall survey producers for information for reports regarding fruit and nut tree inventories. Such surveys and reports shall

be conducted, printed, and distributed on a regular basis every 3 to 5 years as determined by the Secretary. Reports shall be submitted to and officially approved by the Secretary before being issued or published.

(d) Omitted

(e) Authorization

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101–624, title XXV, § 2514, Nov. 28, 1990, 104 Stat. 4074.)

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section is comprised of section 2514 of Pub. L. 101–624. Subsec. (d) of section 2514 of Pub. L. 101–624 repealed section 411a of this title.

§ 1422. Increase of price support levels

(a) Notwithstanding any other provision of this Act, price support at a level in excess of the maximum level of price support otherwise prescribed in this Act may be made available for any agricultural commodity if the Secretary determines, after a public hearing of which reasonable notice has been given, that price support at such increased level is necessary in order to prevent or alleviate a shortage in the supply of any agricultural commodity essential to the national welfare or in order to increase or maintain the production of any agricultural commodity in the interest of national security. The Secretary's determination and the record of the hearing shall be available to the public.

(b) Effective only for the 1991 through 1995 crops of wheat, feed grains, cotton, and rice, the Secretary of Agriculture may provide for annual adjustments in the established prices for such program crops to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, interest, taxes, and wage rates in such calendar year.

(Oct. 31, 1949, ch. 792, title IV, § 402, 63 Stat. 1054; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1127, 104 Stat. 3508.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

CROSS REFERENCES

Price support levels, see section 1441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1441, 1444 of this title.

§ 1423. Adjustments of support prices

(a) In general

The Secretary may make appropriate adjustments in the support price for any commodity (excluding cotton) for differences in grade, type, quality, location and other factors. The adjustments shall, so far as practicable, be made in such manner that the average support price for the commodity will, on the basis of the anticipated incidence of such factors be equal to the level of support determined as provided in this Act. Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premiums or discounts related to quality.

(b) Adjustment in support prices for cotton

The Secretary may make appropriate adjustments in the support price for cotton for differences in quality factors and location. Beginning with the 1991 crop, the quality differences (premiums and discounts for quality factors) for the upland cotton loan program shall be established by the Secretary by giving equal weight to (1) loan differences for the preceding crop, and (2) market differences for such crop in the designated United States spot markets.

(c) Limitation on adjustments for wheat and feed grains

Notwithstanding any other provision of this section, for each of the 1990 through 1995 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease the regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 3 percent.

(Oct. 31, 1949, ch. 792, title IV, § 403, 63 Stat. 1054; Aug. 28, 1958, Pub. L. 85–835, title I, §§ 108, 111, 72 Stat. 993; Nov. 3, 1965, Pub. L. 89–321, title VIII, § 802, 79 Stat. 1213; Dec. 22, 1981, Pub. L. 97–98, title V, § 507, 95 Stat. 1241; Dec. 22, 1987, Pub. L.

100–203, title I, § 1105, 101 Stat. 1330–5; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1128, title XX, § 2011, 104 Stat. 3508, 3932.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–624, § 2011, inserted at end of subsec. (a) ''Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premiums or discounts related to quality.''

Pub. L. 101–624, § 1128, in amending section generally, designated part of existing text as subsecs. (a), (b), and (c), and in subsec. (a) inserted provisions excluding cotton, in subsec. (b) substituted reference to 1991 crop for reference to 1982 crop, and substituted reference to quality factors for reference to grade, staple and micronaire, and in subsec. (c) substituted reference to 1990 through 1995 crops for reference to 1988 through 1990 crops, substituted reference to 3 percent for reference to 2 percent, and struck out provisions relating to establishment and duties of a study committee and authority of Secretary to review and revise procedures and criteria for establishing values of premiums and discounts for grade, staple and micronaire for upland cotton program.

1987—Pub. L. 100–203 inserted at end ''Notwithstanding the preceding provisions of this section, for each of the 1988 through 1990 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2 percent.''

1981—Pub. L. 97–98 inserted provision directing that beginning with 1982 crop of upland cotton, the quality differences for the loan program be established by giving equal weight to the loan differences for the preceding crop and to the market differences for the crop in the nine designated United States spot markets and authorizing the Secretary to establish a study committee to study and report on alternative methods of establishing values of premiums and discounts for grade, staple, and micronaire for the upland cotton loan program that accurately represent true relative market values and reflect actual market demand for upland cotton produced in the United States and to review procedures and criteria for determining quality differences, prior to the announcement of the loan rate differences for the 1982 crop of upland cotton, and based on such review, revise such procedures and criteria to actually reflect the actual market value of upland cotton produced in the United States.

1965—Pub. L. 89–321 provided that, in determining support prices for 1966 and 1967 rice crops, the Secretary shall use head and broken rice value factors for the various varieties which are not lower than those with respect to the 1965 crop and which do not differ as between any two varieties by a greater amount than the value factors used with respect to the 1965 crop for such two varieties differed.

1958—Pub. L. 85–835 provided for support of split grades, and repealed, effective with the 1961 crop, sentence prescribing standard cotton grade for parity and price support purposes.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1128 of Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1444, 1445 of this title.

§ 1424. Utilization of services and facilities of Commodity Credit Corporation

The Secretary, in carrying out programs under section 612c of this title and section 1755 of title 42, may utilize the services and facilities of the Commodity Credit Corporation (including but not limited to procurement by contract), and make advance payments to it.

(Oct. 31, 1949, ch. 792, title IV, § 404, 63 Stat. 1054.)

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

§ 1425. Producer rights and liabilities

(a) Liability for deficiencies

Except as otherwise provided in section 1425a of this title, no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan made under authority of this Act unless such loan was obtained through fraudulent representations by the producer. This provision shall not, however, be construed to prevent the Commodity Credit Corporation or the Secretary from requiring producers to assume liability for deficiencies in the grade, quality, or quantity of commodities stored on the farm or delivered by them, for failure properly to care for and preserve commodities, or for failure or refusal to deliver commodities in accordance with the requirements of the

program. There is authorized to be included in the terms and conditions of any such nonrecourse loan a provision whereby on and after the maturity of the loan or any extension thereof Commodity Credit Corporation shall have the right to acquire title to the unredeemed collateral without obligation to pay for any market value which such collateral may have in excess of the loan indebtedness.

(b) Sugarcane and sugar beets

The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 1421(e)(2) of this title.

(Oct. 31, 1949, ch. 792, title IV, § 405, 63 Stat. 1054; Aug. 28, 1958, Pub. L. 85–835, title V, § 502, 72 Stat. 996; Dec. 23, 1985, Pub. L. 99–198, title X, § 1004, 99 Stat. 1447; Oct. 1, 1988, Pub. L. 100–460, title VI, § 634(a), 102 Stat. 2263; Dec. 13, 1991, Pub. L. 102–237, title I, § 111(b), 105 Stat. 1830.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) Notwithstanding any other provision of law, the Secretary may provide a negotiable certificate to any producer who repays, together with interest, a price support loan made available to such producer under any of the annual programs, for wheat, feed grains, upland cotton, or rice established under this Act.

''(2) The amount of such certificates shall be equal to the amount of the interest paid by the producer on such loan.

''(3) Such certificate shall be redeemable in wheat, feed grains, upland cotton, or rice, as the case may be, owned by the Commodity Credit Corporation.

''(4) The issuance of such certificate shall be subject to the availability of commodities owned by the Corporation.''

1988—Subsec. (a). Pub. L. 100–460 substituted ''Except as otherwise provided in section 1425a of this title, no producer'' for ''No producer''.

1985—Pub. L. 99–198 temporarily designated existing provisions as subsec. (a) and added subsec. (b). See Effective and Termination Dates of 1985 Amendment note below.

1958—Pub. L. 85–835 authorized the Commodity Credit Corporation to acquire title to agricultural commodities on which nonrecourse price-support loans have been made without the necessity of computing and making payments to the farmer.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 634(a) of Pub. L. 100–460 provided that the amendment made by that section is effective beginning with 1989 crop year for honey.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 1004 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1425a. Producers of honey; loan obligations and liabilities

(a) Loan forfeiture limitation

A producer of honey may satisfy the producer's obligation to repay a loan, or a portion of a loan, made to the producer under section 1446h[1] of this title by forfeiting the collateral for the loan, or portion of the loan, only if the value of the collateral forfeited, when taken together with the value of the collateral forfeited on any other loan or loans of the person for such crop of honey under section 1446h[1] of this title, does not exceed $200,000 in the 1991 crop year, $175,000 in the 1992 crop year, $150,000 in the 1993 crop year, and $125,000 in each of the 1994 and subsequent crop years: *Provided, however*, That the loan forfeiture limitation provided by this section shall not be applicable for any crop year for which the Secretary does not permit producers of honey to repay the price support loans at a level determined under section 1446h(b)(2)[1] of this title.

(b) Liability for nonforfeitable part of obligation

The producer of honey shall be personally liable for the repayment of a loan or loans made to the producer under the program for the crop of honey involved, with respect to that portion of the loan or loans for which satisfaction of the loan by forfeiture, as provided in subsection (a) of this section, is prohibited.

(c) Extent of personal liability

The loan contracts of the Commodity Credit Corporation entered into with producers of honey shall clearly indicate the extent to which a producer of honey may be personally liable for repayment of a loan under this section.

(d) Promulgation of regulations

The Commodity Credit Corporation may issue such regulations as the Corporation deems necessary to carry out this section. The regulations shall provide for the attribution of the value of collateral forfeited on loans described in subsection (a) of this section.

(Oct. 31, 1949, ch. 792, title IV, § 405A, as added Oct. 1, 1988, Pub. L. 100–460, title VI, § 634(b), 102

[1] See References in Text note below.

Stat. 2263; amended Nov. 28, 1990, Pub. L. 101–624, title X, § 1002, title XI, § 1161(d), 104 Stat. 3490, 3521.)

REFERENCES IN TEXT

Section 1446h of this title, referred to in subsec. (a), was repealed by Pub. L. 104–127, title I, § 171(b)(2)(H), Apr. 4, 1996, 110 Stat. 938.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624, § 1161(d), substituted references to sections 1446h and 1446h(b)(2) of this title for references to sections 1446(b) and 1446(b)(2)(B) of this title, respectively.

Pub. L. 101–624, § 1002(1), substituted ''person for such crop of honey under section 1446h of this title, does not exceed $200,000 in the 1991 crop year, $175,000 in the 1992 crop year, $150,000 in the 1993 crop year, and $125,000 in each of the 1994 and subsequent crop years'' for ''producer for such crop of honey under section 1446(b) of this title, does not exceed $250,000''.

Subsec. (d). Pub. L. 101–624, § 1002(2), inserted provisions requiring that the regulations issued pursuant to this subsection provide for the attribution of the value of collateral forfeited on loans described in subsec. (a).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

PROHIBITION ON USE OF FUNDS FOR HONEY PAYMENTS OR LOAN FORFEITURES

Pub. L. 104–37, title VII, § 718, Oct. 21, 1995, 109 Stat. 331, provided that none of the funds appropriated or otherwise made available by Pub. L. 104–37 were to be used by the Secretary of Agriculture to provide total amount of payments and/or total amount of loan forfeitures to a person to support the price of honey under this section or former section 1446h of this title in excess of zero dollars in the 1994, 1995, and 1996 crop years.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–330, title VII, § 723, Sept. 30, 1994, 108 Stat. 2469.

Pub. L. 103–111, title VII, § 728, Oct. 21, 1993, 107 Stat. 1081.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1425 of this title.

§ 1426. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(I), Apr. 4, 1996, 110 Stat. 938

Section, acts Oct. 31, 1949, ch. 792, title IV, § 406, 63 Stat. 1055; Dec. 23, 1985, Pub. L. 99–198, title X, § 1016, 99 Stat. 1457; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1129, 104 Stat. 3508; Dec. 13, 1991, Pub. L. 102–237, title I, § 113(11), 105 Stat. 1838, provided for advance announcement of price support levels.

§ 1427. Commodity Credit Corporation sales price restrictions

(a) In general

The Commodity Credit Corporation may sell any farm commodity owned or controlled by the Corporation at any price not prohibited by this section.

(b) Inventories

In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should consider the establishment of such policies with respect to prices, terms, and conditions as the Corporation determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop.

(c) Sales price restrictions

(1) In general

Except as otherwise provided in this section, the Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 115 percent of the lower of—

(A) the current national average price support loan rate for the commodity adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors determined appropriate by the Corporation; or

(B) the loan repayment level.

(2) Extra long staple cotton

The Corporation may sell extra long staple cotton for unrestricted use at such price as the Corporation determines is appropriate to maintain and expand export and domestic markets.

(3) Oilseeds

The Corporation shall not sell oilseeds at less than the lower of—

(A) 105 percent of the current national average price support loan rate for the oilseed, adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors determined appropriate by the Corporation; or

(B) 115 percent of the loan repayment level.

(4) Wheat and feed grains

Whenever the producer reserve program for wheat and feed grains established under section 1445e of this title is in effect, the Corporation may not sell any of its stocks of wheat or feed grains at a level that is less than 150 percent of the then current loan rate for wheat or feed grains.

(5) Upland cotton

The Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same price the Corporation sells upland cotton for export, but in no event at less than the amount provided for in paragraph (1).

(d) Nonapplication of sales price restrictions

The foregoing restrictions of this section shall not apply to—

(1) sales for new or byproduct uses;

(2) sales of peanuts and oilseeds for the extraction of oil;

(3) sales for seed or feed if the sales will not substantially impair any price support program;

(4) sales of commodities that have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(5) sales for the purpose of establishing claims arising out of contract or against per-

sons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity;

(6) sales for export (excluding sales of upland cotton for export);

(7) sales of wool; and

(8) sales for other than primary uses.

(e) Distress, disaster, and livestock emergency areas

(1) In general

Notwithstanding the foregoing provisions of this section, the Corporation, on such terms and conditions as the Secretary may consider in the public interest, may—

(A) make available any farm commodity or product thereof owned or controlled by the Corporation for use in relieving distress—

(i) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(ii) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) donate or sell commodities in accordance with subchapter V of this chapter.

(2) Costs

Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making the commodity available under this subsection beyond the cost of the commodities to the Corporation in—

(A) the storage of the commodity; and

(B) the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State or other area.

(f) Efficient operations

(1) In general

Subject to paragraph (2), the foregoing restrictions of this section shall not apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantities involved, or because of age, location or questionable continued storability of the commodity.

(2) Offsets

The sales shall be offset (if necessary) by the purchases of commodities as the Corporation determines is appropriate to prevent the sales from substantially impairing any price support program or unduly affecting market prices, except that the purchase price shall not exceed the Corporation's minimum sales price for the commodities for unrestricted use.

(3) Competitive bid basis

Subject to the sales price restrictions contained in this section, the Corporation may sell any basic agricultural commodity or storable nonbasic commodity on a competitive bid basis, if the sale is determined to be appropriate by the Secretary.

(g) Sales for export

For the purposes of this section, sales for export shall include—

(1) sales made on condition that the identical commodities sold be exported; and

(2) sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form.

(Oct. 31, 1949, ch. 792, title IV, § 407, 63 Stat. 1055; July 10, 1954, ch. 469, title III, § 308, formerly § 301, 68 Stat. 458, renumbered § 308, Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(1), 91 Stat. 548; amended July 29, 1954, ch. 643, 68 Stat. 583; Jan. 28, 1956, ch. 14, 70 Stat. 6; Aug. 28, 1958, Pub. L. 85–835, title I, § 109, 72 Stat. 993; Aug. 7, 1961, Pub. L. 87–127, 75 Stat. 293; Sept. 27, 1962, Pub. L. 87–703, title III, § 325(2), title IV, § 404, 76 Stat. 631, 632; Apr. 11, 1964, Pub. L. 88–297, title I, § 104, title II, § 204, 78 Stat. 175, 183; Sept. 11, 1964, Pub. L. 88–585, § 1, 78 Stat. 927; Nov. 3, 1965, Pub. L. 89–321, title IV, § 404, 79 Stat. 1197; Nov. 11, 1966, Pub. L. 89–808, § 3(e), 80 Stat. 1538; Aug. 11, 1968, Pub. L. 90–475, § 7, 82 Stat. 703; Oct. 11, 1968, Pub. L. 90–559, § 1(5), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title IV, § 409, title VI, § 603, 84 Stat. 1367, 1377; Sept. 29, 1977, Pub. L. 95–113, title IV, § 408, title VI, § 603, 91 Stat. 927, 939; Dec. 22, 1981, Pub. L. 97–98, title V, § 503, title XI, §§ 1103, 1111(a), 95 Stat. 1240, 1264, 1267; Aug. 26, 1983, Pub. L. 98–88, § 5, 97 Stat. 499; Dec. 23, 1985, Pub. L. 99–198, title V, § 503, title X, § 1007, title XVII, § 1763(b), 99 Stat. 1418, 1451, 1651; Aug. 11, 1988, Pub. L. 100–387, title I, § 101(b)(2), 102 Stat. 931; Nov. 23, 1988, Pub. L. 100–707, title I, § 109(a)(2), 102 Stat. 4708; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1130, 104 Stat. 3509.)

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (e)(1)(A)(ii), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 308 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 13, 73 Stat. 609; amended Sept. 27, 1962, Pub. L. 87–703, title II, § 203, 76 Stat. 611, cited as a credit to this section, which enacted section 1697 of this title, was repealed by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, designating part of existing text as subsecs. (a) to (g), and as so designated, in subsec. (c), substituting provisions restricting sales of nonbasic or agricultural commodities at less than 115 percent of the levels of the current national price support level or the loan repayment level for provisions restricting such sales at less than 5 percent above the current support price, substituting provisions authorizing the sale of extra long staple cotton at any price determined appropriate for provisions that it sell at not less than 15 percent above the cur-

rent support price, adding provisions relating to oilseeds, and wheat and feed grains, deleting provisions relating to sales of extra long staple cotton for unrestricted use and the authority of Secretary in carrying out this section.

1988—Pub. L. 100–707, substituted ''the Disaster Relief and Emergency Assistance Act'' for ''Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855)''.

Pub. L. 100–387 substituted provision authorizing the Commodity Credit Corporation to donate or sell commodities in accordance with subchapter V of this chapter for provision authorizing the Commodity Credit Corporation to make feed for livestock available to certain persons in certain areas during emergencies.

1985—Pub. L. 99–198, § 1007, temporarily reenacted substantially without change the amendments made in 1981 by section 1103 of Pub. L. 97–98, which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges; designated such provisions as thus reenacted as cl. (A) of the proviso involved and added cl. (B) relating to the Secretary's permitting the repayment of loans at a loan rate less than the loan level determined for such crop; and reenacted, also without change, the amendments by Pub. L. 97–98 which had the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use. See Effective and Termination Dates of 1985 Amendment note below.

Pub. L. 99–198, § 1763(b), inserted provision giving the Commodity Credit Corporation authority to (1) make available feed for livestock to certain persons during emergencies in areas in which feed grains are normally produced and normally available for feed purposes, but in which they are unavailable because of a catastrophe described in the fourth sentence of this section, (2) make such feed available to such persons through feed dealers in the areas, (3) make such feed available at a price not less than the price prescribed in the fourth sentence of this section, and (4) bear any expenses incurred in connection with making such feed available to such persons under this sentence, including transportation and handling costs.

Pub. L. 99–198, § 503, temporarily reenacted substantially without change the amendments made in 1981 by section 503 of Pub. L. 97–98, which provided that the Commodity Credit Corporation sell upland cotton for unrestricted use at the same prices as it sells cotton for export, but in no event at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and substituted ''as it sells upland cotton'' for ''as it sells cotton'' and ''percent'' for ''per centum''; designated such provisions as thus reenacted as cl. (A), and added cl. (B) relating to the Secretary's permitting the repayment of loans at a loan rate less than the loan level determined for such crop. See Effective and Termination Dates of 1985 Amendment note below.

1983—Pub. L. 98–88 inserted provision that, beginning Aug. 26, 1983, the Commodity Credit Corporation may sell extra long staple cotton for unrestricted use at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton.

1981—Pub. L. 97–98 temporarily reenacted without change the amendments made in 1977 by section 408 of Pub. L. 95–113, which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, and which had changed the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and the amendment made in 1977 by section 603 of Pub. L. 95–113, which provided that the Commodity Credit Corporation sell upland cotton for unrestricted use at the same prices as it sells cotton for export, but in no event at less than 115 per centum of the loan rate for Strict Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and substituted ''may make available'' for ''shall make available'' and ''may make feed'' for ''shall make feed''. See Effective and Termination Dates of 1981 Amendment note below.

1977—Pub. L. 95–113 temporarily reenacted without change the amendments made in 1970 by section 409 of Pub. L. 91–524 which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, and which had changed the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and reenacted the amendment made in 1970 by section 603 of Pub. L. 91–524 with regard to the sale of upland cotton by the Corporation with the single change of substituting ''at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton'' for ''at less than 110 per centum of the loan rate for Middling one-inch upland cotton'' in provisions setting the minimum price at which the Corporation shall sell upland cotton for unrestricted use. See Effective and Termination Dates of 1977 Amendment note below.

1970—Pub. L. 91–524 temporarily established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, changed the price at which purchases must be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and provided for sale of upland cotton by the Corporation for unrestricted use at the same prices as it sold for export, in no event, however, at less than 110 percent of the loan rate for Middling one-inch cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as deemed appropriate by the Secretary, plus reasonable carrying charges. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90–559 extended termination date for sale of upland cotton from July 31, 1970, to July 31, 1971.

Pub. L. 90–475 required that notwithstanding any other provision of this section, effective Aug. 1, 1968, the Commodity Credit Corporation make available for sale for unrestricted use at current market prices a quantity of American grown extra long staple cotton equal to the specified amount, with the proviso that beginning with the marketing year for which the national marketing quota is not established pursuant to section 1347(b)(3) of this title, no sales shall be made at less than 115 percent of the loan rate for extra long staple cotton under section 1441(f) of this title, and required the Secretary to make adjustments in the quantities of cotton to be made available.

1966—Pub. L. 89–808 inserted proviso to third sentence prohibiting, whenever carryover at end of any marketing year of a price supported agricultural commodity

for which a voluntary adjustment program is in effect will be less than 25 per centum (35 per centum in the case of wheat) of the estimated export and domestic consumption of such commodity during such marketing year, sale of CCC stocks of such commodity during such year for unrestricted use at less than 115 per centum (120 per centum in the case of wheat whenever its carryover will be less than 25 per centum of such estimated export and domestic consumption) of the current price support loan plus reasonable carrying charges.

1965—Pub. L. 89–321 required that notwithstanding any other provision of this section, for the period August 1, 1966, through July 31, 1970, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 110 per centum of the loan rate, and (2) the Commodity Credit Corporation shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year, permitted the Secretary to make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) of the foregoing sentence, and required such quantities of cotton as are required to be sold under such sentence to be offered for sale in an orderly manner and so as not to affect market prices unduly.

1964—Pub. L. 88–585 provided that the Corporation, in providing feed to distressed areas, may charge not less than 75 percent of the current basic county support rate including the value of any applicable price support payment in kind, included the Virgin Islands within those areas where such feed can be made obtainable, authorized the Secretary to provide feed by feed dealers under such arrangement that the feed so furnished would be replaced with feed owned or controlled by the Corporation and sold to such persons, and inserted ''or other area'' after ''one or more central locations in each State''.

Pub. L. 88–297, § 104, inserted proviso that beginning Aug. 1, 1964, the Corporation may sell upland cotton for unrestricted use at not less than 105 per centum of the current loan rate for such cotton under section 1444(a) of this title plus reasonable carrying charges.

Pub. L. 88–297, § 204, temporarily substituted proviso that if wheat marketing allocation program is in effect, the current price for wheat shall be the support price for wheat not accompanied by marketing certificates for proviso prescribing support price for wheat accompanied by marketing certificate and sale of wheat to be accompanied by marketing certificate, respectively. See Effective and Termination Dates of 1964 Amendment note below.

1962—Pub. L. 87–703 prescribed that a marketing certificate accompany the support price for wheat and wheat sold and authorized the Secretary to make Commodity Credit Corporation feed available, prior to Dec. 31, 1963, to milk producers to assure supply free of radioactive fallout contamination, respectively.

1961—Pub. L. 87–127 empowered Corporation to sell, at not less than 75 percent of the current support price, feed owned or controlled by it to assist in the preservation and maintenance of foundation herds of cattle, sheep, and goats in such areas where the Secretary determines an emergency exists warranting such assistance.

1958—Pub. L. 85–835 required Corporation to sell cotton for unrestricted use at not less than 15 per centum above support price plus reasonable carrying charges, and authorized Corporation to sell at market price a number of bales equal to that by which the national marketing quota is less than domestic consumption and exports.

1956—Act Jan. 28, 1956, included as ''sales for export'' sales made on condition that like commodities of comparable value or quantity be exported in raw or processed form.

1954—Act July 29, 1954, exempted from the minimum price requirement any sales where disposition is desirable in the interest of effective and efficient conduct of the Corporation's operations because of the small quantities involved or because of age, location, or questionable storability.

Act July 10, 1954, inserted provisions relating to use of farm commodities and products in relieving distress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 101(c) of Pub. L. 100–387 provided that:

''(1) This section and the amendments made by this section [enacting sections 1471 to 1471j of this title, amending this section, repealing sections 1433 and 2267 of this title, enacting provisions set out as a note under section 1421 of this title, and repealing provisions set out as notes under this section] shall become effective 15 days after the date of the enactment of this Act [Aug. 11, 1988].

''(2) The provisions of section 604(d), 605(c), 606(a)(2)(A), 606(e), 609(c), and 609(d) of the Agricultural Act of 1949, as added by subsection (a) [7 U.S.C. 1471b(d), 1471c(c), 1471d(a)(2)(A), (e), 1471g(c), (d)], shall apply only with respect to any livestock emergency in 1988.''

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 503 of Pub. L. 99–198 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for upland cotton] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1991.

Section 1007 of Pub. L. 99–198 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for wheat and feed grains] is effective only for marketing years for 1986 through 1990 crops.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 503 of Pub. L. 97–98 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for upland cotton] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1986.

Section 1103 of Pub. L. 97–98 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales restrictions for wheat and feed grains] is effective only for marketing years for 1982 through 1985 crops.

Amendment by § 1111(a) of Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 408 of Pub. L. 95–113 provided that the amendment made by that section [which reenacted without change the amendment first made by section 409 of Pub. L. 91–524 establishing a floor for sales of wheat and feed grains and changing price at which purchases must be made to offset sales in interest of efficient conduct of Corporation's operations] is effective only with respect to marketing years for 1978 through 1981 crops.

Section 603 of Pub. L. 95–113 provided that the amendment made by that section [which reenacted with some changes (see 1977 Amendment note above) the amendment first made by section 603 of Pub. L. 91–524 relating to sale of upland cotton by Corporation] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1982.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 409 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(16), Aug. 10, 1973, 87 Stat. 230, provided that the

amendment made by that section [establishing a floor for sales of wheat and feed grains and changing price at which purchases must be made to offset sales in interest of efficient conduct of Corporation's operations] is effective only with respect to marketing years for 1971 through 1977 crops.

Section 603 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(21), Aug. 10, 1973, 87 Stat. 235, provided that the amendment made by that section [covering sale of upland cotton by Corporation] is effective only with respect to period beginning Aug. 1, 1971, and ending July 31, 1978.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 204 of Pub. L. 88–297, as amended by Pub. L. 89–321, title V, § 503(3), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to marketing years beginning in calendar years 1964 through 1970.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

SALE OF CORN TO ETHANOL PRODUCERS

Section 332 of Pub. L. 100–387 provided that:

''(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding section 110(f) of the Agricultural Act of 1949 (7 U.S.C. 1445e(f)) or any other provision of law, if, during any month commencing after July 31, 1988, the average corn price (as determined under subsection (d)) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4005)), the Secretary of Agriculture may make available for sale to domestic producers of ethanol fuel, for the production of ethanol, not more than 12,000,000 bushels per month of corn owned by the Commodity Credit Corporation.

''(b) PRICE.—Corn shall be sold under this section at a price that is not more than such fuel conversion price, except that such price shall not be less than 110 percent of the basic county loan rate for corn, prior to any adjustment made under section 105C(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444e(a)(3)).

''(c) MAXIMUM AMOUNT.—The total quantity of corn sold to any ethanol producer under this section may not exceed 2,000,000 bushels per month.

''(d) AVERAGE CORN PRICE.—The average corn price under this section shall be determined by the Secretary based on the average corn price in markets used for determinations made under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)).

''(e) TERMS.—(1) The Secretary may not make corn or other commodities available under this section to any domestic producer of ethanol that uses in excess of 30,000,000 bushels of corn or comparable commodity annually in producing ethanol.

''(2) Domestic producers of ethanol fuel purchasing corn under this section shall agree not to resell such corn and to make available a quantity of feed byproducts equivalent to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and subject to such terms and conditions as are approved by the Secretary.

''(f) TERMINATION.—The Secretary shall terminate any program established under this section no later than September 1, 1989. The Secretary shall terminate the program on an earlier date if the Secretary determines that—

''(1) such program is no longer necessary to maintain the economic viability of the ethanol industry; or

''(2) a sufficient supply of corn otherwise would not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency livestock feeding programs during the subsequent 180-day period.

''(g) OTHER COMMODITIES.—The Secretary may, at the request of a domestic producer of ethanol, substitute other feed grains (such as grain sorghum) for corn on an equitable basis, taking into account variations in the value of such commodities in the production of ethanol.''

EMERGENCY FEED ASSISTANCE

Pub. L. 98–180, title III, § 303, Nov. 29, 1983, 97 Stat. 1151, which authorized Secretary of Agriculture to make damaged corn available to assist eligible farmers and ranchers in areas adversely affected by drought, hot weather, or related disaster to preserve and maintain foundation herds of livestock and poultry, which corn was to be available until Sept. 30, 1984, or date, as determined by the Secretary, on which emergency no longer exists, was repealed by Pub. L. 100–387, title I, § 101(b)(5), Aug. 11, 1988, 102 Stat. 932, eff. 15 days after Aug. 11, 1988.

SALE OF FEED FOR LIVESTOCK IN EMERGENCY AREAS; DESIGNATION OF EMERGENCY AREA; CONDITIONS; PENALTY

Pub. L. 86–299, Sept. 21, 1959, 73 Stat. 574, as amended by Pub. L. 88–585, § 3, Sept. 11, 1964, 78 Stat. 927, which authorized Secretary of Agriculture to sell feed grains to provide feed for livestock in any area determined by Secretary to be an emergency area, and provided penalty for any person disposing of such feed other than by feeding livestock owned by him, was repealed by Pub. L. 100–387, title I, § 101(b)(4), Aug. 11, 1988, 102 Stat. 931, eff. 15 days after Aug. 11, 1988.

FEED GRAIN; SALE BY CCC; TERMINATION DATE

Act Aug. 28, 1954, ch. 1041, title II, § 208, 68 Stat. 901, authorized the Commodity Credit Corporation until March 1, 1955, to sell at the point of storage any feed grain owned by the Corporation at 10 per centum above the current support price for the commodity.

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO SELL WHEAT AND CORN

Pub. L. 85–683, Aug. 19, 1958, 72 Stat. 635, as authorizing Commodity Credit Corporation to purchase flour and cornmeal for donation and to sell, without regard to this section, an equivalent amount of wheat and corn, see note set out under section 1431 of this title.

SALE OF COMMODITIES FOR FOREIGN CURRENCIES

Sale of surplus agricultural commodities for foreign currencies, see section 1691 et seq., of this title.

EX. ORD. NO. 11336. DELEGATION OF AUTHORITY RELATING TO EMERGENCY LIVESTOCK FEED

Ex. Ord. No. 11336, Mar. 22, 1967, 32 F.R. 4489, provided:

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) The Secretary of Agriculture is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by clause (1) of the fifth sentence of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), to the extent prescribed in subsection (b) of this section.

(b) Whenever the Secretary of Agriculture determines that the chronic economic distress of the needy members of an Indian tribe is materially increased by severe drought, flood, hurricane, blizzard, or other uncontrollable catastrophe affecting any reservation or other land designated for Indian use which is utilized by members of such tribe for grazing livestock, he may, under subsection (a) of this section, declare such reservation or other land to be an acute distress area because of unemployment or other economic reasons if he finds that the use of farm commodities or the products thereof made available by the Commodity Credit Corporation for livestock feed in that area will not displace or interfere with normal marketing of agricultural commodities.

SEC. 2. Federal assistance in relieving distress, extended as a result of action by the Secretary of Agriculture under the authority delegated by section 1 of this order, shall terminate in each instance upon notice by the Secretary of Agriculture.

SEC. 3. In carrying out the provisions of this order the Secretary of Agriculture shall maintain liaison with the Secretary of the Interior and shall consult with the latter as may be appropriate.

SEC. 4. The declaration contained in the letter of the President to the Secretary of Agriculture, dated February 1, 1965, that reservation lands in Arizona, Utah and New Mexico, which are grazed in common by Indian tribes, are an acute distress area shall continue in effect until January 1, 1968, or until such earlier date as may be fixed by notice of the Secretary of Agriculture published in the Federal Register.

LYNDON B. JOHNSON.

CROSS REFERENCES

Agricultural commodity set-aside, dispositions not subject to pricing limitation, see section 1744 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359a, 1427a, 1428, 1444, 1446, 1744 of this title; title 50 App. section 2093.

§ 1427–1. Quality requirements for Commodity Credit Corporation owned grain

(a) Establishment of minimum standards

Notwithstanding any other provision of law, the Secretary shall establish minimum quality standards that shall apply to grain that is deposited for storage for the account of the Commodity Credit Corporation. In establishing such standards, the Secretary shall take into consideration factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance.

(b) Inspection of grain acquisitions

The Commodity Credit Corporation shall utilize Federal Grain Inspection Service approved procedures to inspect and evaluate the condition of the grain it acquires from producers. In no case shall this section require the use of an official inspection unless the producer so requests.

(Oct. 31, 1949, ch. 792, title IV, § 407A, as added Nov. 28, 1990, Pub. L. 101–624, title XX, § 2012, 104 Stat. 3933.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1427a. Reserve inventories for alleviation of distress of natural disaster

(a) Establishment, maintenance and disposal by Secretary; amount and nature of reserve

Notwithstanding any other provision of law, the Secretary of Agriculture may under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of not to exceed 75 million bushels of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

Such reserve inventories may include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

(b) Acquisition of commodities through price support program

The Secretary may acquire such commodities through the price support program. However, if the Secretary determines that no wheat, feed grains, or soybeans are available through the price support program at locations where they may be economically utilized to alleviate distress caused by a natural disaster, the Secretary is authorized to purchase through the facilities of the Commodity Credit Corporation such wheat, feed grains, soybeans, hay, or other livestock forages as the Secretary deems necessary for disposition in accordance with the authority provided in subsection (d) of this section. The Secretary may acquire wheat, feed grains, soybeans, hay, or other livestock forages at such locations, at such times, and in such quantities as the Secretary finds necessary and appropriate and may pay such transportation and other costs as may be required to permit disposition of such wheat, feed grains, soybeans, hay, and other livestock forages under subsection (d) of this section.

(c) Prerequisites for sale or disposition of commodities in reserve

Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should be disposed of, the Secretary shall not offer any commodity in the reserve for sale or disposition.

(d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies

The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (88 Stat. 143, as amended; 42 U.S.C. 5121), and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), or section 2267[1] of this title; or (2) use in connection

[1] See References in Text note below.

with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5195 et seq.].

(e) Sale at equivalent prices for maintenance of reserve

The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

(f) Utilization of Commodity Credit Corporation and usual and customary channels, etc., of trade and commerce

The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this section; and to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(g) Rules and regulations

The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

(h) Authorization of appropriations

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 91–524, title VIII, § 813, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 239; amended Pub. L. 95–113, title XI, § 1103, Sept. 29, 1977, 91 Stat. 953; Pub. L. 97–98, title X, § 1003, Dec. 22, 1981, 95 Stat. 1260; Pub. L. 100–707, title I, § 109(b), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 103–337, div. C, title XXXIV, § 3412(b)(3), Oct. 5, 1994, 108 Stat. 3111.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, known as the Agricultural Act of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

The Disaster Relief and Emergency Assistance Act and The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d), are Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. Title VI of the Act is classified generally to subchapter IV–B (§ 5195 et seq.) of chapter 68 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

Act of September 21, 1959, referred to in subsec. (d), is Pub. L. 86–299, Sept. 21, 1959, 73 Stat. 574, as amended, which is set out as a note under section 1427 of this title.

Section 2267 of this title, referred to in subsec. (d), was repealed by Pub. L. 100–387, title I, § 101(b)(1), Aug. 11, 1988, 102 Stat. 931.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–337 substituted ''title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act'' for ''the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297)''.

1988—Subsec. (d). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974''.

1981—Subsec. (a). Pub. L. 97–98 substituted ''may'' for ''shall'' wherever appearing.

Subsec. (b). Pub. L. 97–98 substituted ''Secretary may acquire such commodities'' for ''Secretary shall acquire such commodities''.

1977—Subsec. (b). Pub. L. 95–113, § 1103(a), inserted provisions authorizing Secretary to act if it is determined that no wheat, feed grains, or soybeans are available through the price support program at locations where they can be economically utilized to alleviate distress caused by a natural disaster.

Subsec. (d). Pub. L. 95–113, § 1103(b), substituted ''(A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959, or section 2267 of this title'' for ''(a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

§ 1428. Definitions

For the purposes of this Act—

(a) A commodity shall be considered storable upon determination by the Secretary that, in normal trade practice, it is stored for substantial periods of time and that it can be stored under the price-support program without excessive loss through deterioration or spoilage or without excessive cost for storage for such periods as will permit its disposition without substantial impairment of the effectiveness of the price-support program.

(b) A ''cooperator'' with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under subchapter II of chapter 35 of this title, or in the case of price support for corn or wheat to a producer outside the commercial corn-producing or wheat-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary: *Provided*, That for upland cotton a cooperator shall be a producer on whose farm the acreage planted to such cotton does not exceed the cooperator

percentage, which shall be in the case of the 1966 crop, 87.5 per centum of such farm acreage allotment and, in the case of each of the 1967 through 1970 crops, such percentage, not less than 87.5 or more than 100 per centum, of such farm acreage allotment as the Secretary may specify for such crop, except that in the case of small farms (i.e. farms on which the acreage allotment is 10 acres or less, or on which the projected farm yield times the acreage allotment is 3,600 pounds or less, and the acreage allotment has not been reduced under section 1344(m) of this title) the acreage of cotton on the farm shall not be required to be reduced below the farm acreage allotment: *And provided*, That for the 1971 through 1977 crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title: *Provided further*, That for the 1976 through 1981 crops of rice, a cooperator shall be a person who produces rice on a farm for which a farm acreage allotment has been established or to which a producer acreage allotment has been allocated and, if a set-aside is in effect, who has set aside any acreage required under section 1441(g) of this title. *Provided further*, That for the 1978 through 1981 crops of upland cotton, a cooperator shall be a producer on a farm who has set aside the acreage required under section 1444(f) of this title. For the purpose of this subsection, a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

(c) A ''basic agricultural commodity'' shall mean corn, cotton, peanuts, rice, tobacco, and wheat, respectively.

(d) A ''nonbasic agricultural commodity'' shall mean any agricultural commodity other than a basic agricultural commodity.

(e) The ''supply percentage'' as to any commodity shall be the percentage which the estimated total supply is of the normal supply as determined by the Secretary from the latest available statistics of the Department of Agriculture as of the beginning of the marketing year for the commodity.

(f) ''Total supply'' of any nonbasic agricultural commodity for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(g) ''Carry-over'' of any nonbasic agricultural commodity for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any part of the crop or production of such commodity which was produced in the United States during the calendar year then current. The carryover of any such commodity may also include the quantity of such commodity in processed form on hand in the United States at the beginning of such marketing year, if the Secretary determines that the inclusion of such processed quantity of the commodity is necessary to effectuate the purposes of this Act.

(h) ''Normal supply'' of any nonbasic agricultural commodity for any marketing year shall be (1) the estimated domestic consumption of the commodity for the marketing year for which such normal supply is being determined, plus (2) the estimated exports of the commodity for such marketing year, plus (3) an allowance for carry-over. The allowance for carry-over shall be the average carry-over of the commodity for the five marketing years immediately preceding the marketing year in which such normal supply is determined, adjusted for surpluses or deficiencies caused by abnormal conditions, changes in marketing conditions, or the operation of any agricultural program. In determining normal supply, the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(i) ''Marketing year'' for any nonbasic agricultural commodity means any period determined by the Secretary during which substantially all of a crop or production of such commodity is normally marketed by the producers thereof.

(j) Any term defined in the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.], shall have the same meaning when used in this Act.

(k)(1) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to the terms ''support price'', ''level of support'', and ''level of price support'' shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice under this Act.

(2) References made to the terms ''price support'', ''price support operations'', and ''price support program'' in such sections and in section 1421(a) of this title shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice under this Act.

(3) Notwithstanding any other provision of law, this subsection shall be effective only for the 1991 through 1995 crops of wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice.

(*l*) ''Producer'' shall include a person growing hybrid seed under contract. In determining the interest of a grower of hybrid seed in a crop, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(Oct. 31, 1949, ch. 792, title IV, § 408, 63 Stat. 1055; Aug. 28, 1954, ch. 1041, title II, § 209, 68 Stat. 901; Nov. 3, 1965, Pub. L. 89–321, title IV, § 402(b), 79 Stat. 1197; Oct. 11, 1968, Pub. L. 90–559, § 1(4), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title IV, § 408, title VI, §§ 604, 607, 84 Stat. 1367, 1378; Aug. 10, 1973, Pub. L. 93–86, § 1(22), 87 Stat. 235; Feb. 16, 1976, Pub. L. 94–214, title III, §§ 303, 304, 90 Stat. 187, 188; Sept. 29, 1977, Pub. L. 95–113, title IV, § 407, title VI, § 604(a), (b), title VII, §§ 704, 705, 91 Stat. 927, 939, 944; Dec. 22, 1981, Pub. L. 97–98, title XI, § 1104, 95 Stat. 1264; Dec. 23, 1985, Pub. L. 99–198, title X, § 1018, 99 Stat. 1459; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1131, 104 Stat. 3511.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of

this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 1441(g) of this title, referred to in subsec. (b), was omitted from the Code.

The Agricultural Adjustment Act of 1938, referred to in subsec. (j), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

AMENDMENTS

1990—Subsec. (k). Pub. L. 101–624, § 1131(a), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows:

''(1) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, and rice under this Act.

''(2) References made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 1421(a) of this title shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, and rice under this Act.''

Subsecs. (*l*), (m). Pub. L. 101–624, § 1131(b), added subsec. (*l*) and struck out former subsecs. (*l*) and (m). See 1977 Amendment note below.

1985—Subsec. (k). Pub. L. 99–198 temporarily amended subsec. (k) generally, designating provisions before the semicolon as par. (1) and substituting ''loan and purchase level'' for ''level of loans and purchases'', and designating provisions after the semicolon as par. (2). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsec. (k). Pub. L. 97–98 temporarily substituted ''Reference made'' for ''References made'' and inserted reference to section 1427 of this title and to upland cotton and rice. See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (b). Pub. L. 95–113, §§ 604(a), 704, inserted proviso defining cooperator for purposes of the 1978 through 1981 crops of upland cotton as a producer on a farm who has set aside the acreage required under section 1444(f) of this title and substituted ''1976 through 1981 crops of rice'' for ''1976 and 1977 crops of rice'' in proviso defining cooperator for purposes of specific crops of rice.

Subsecs. (k) to (m). Pub. L. 95–113, §§ 407, 604(b), 705, temporarily amended subsecs. (k) to (m) generally. See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (b). Pub. L. 94–214, § 303, inserted proviso defining ''cooperator'' for 1976 and 1977 crops of rice.

Subsec. (m). Pub. L. 94–214, § 304, temporarily added subsec. (m). See Effective and Termination Dates of 1976 Amendment note below.

1973—Subsec. (b). Pub. L. 93–86 substituted ''1971 through 1977'' for ''1971, 1972, and 1973'' in proviso requiring that for such designated crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

1970—Subsec. (b). Pub. L. 91–524, § 604, inserted proviso that, for the 1971, 1972, and 1973 crops of upland cotton, a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

Subsecs. (k), (*l*). Pub. L. 91–524, §§ 408, 607, temporarily added subsecs. (k) and (*l*). See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (b). Pub. L. 90–559 provided for a one year extension, substituting ''1967 through 1970'' for ''1967, 1968, and 1969''.

1965—Subsec. (b). Pub. L. 89–321 temporarily inserted proviso. See Effective and Termination Dates of 1965 Amendment note below.

1954—Subsec. (b). Act Aug. 28, 1954, inserted ''or wheat'' after ''corn'', and ''or wheat-producing'' after ''corn producing''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 1018 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 1104 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Sections 407, 604(b), and 705 of Pub. L. 95–113 provided that the amendments made by those sections are effective for 1978 through 1981 crops.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 304 of Pub. L. 94–214 provided that the amendment made by that section is effective only with respect to 1976 and 1977 crops of rice.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 408 and 607 of Pub. L. 91–524, as amended by section 1(15), (22) of Pub. L. 93–86, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Section 402(b) of Pub. L. 89–321, as amended by Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only for 1966 through 1970 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444 of this title.

§ 1429. Determinations of Secretary as final and conclusive

Determinations made by the Secretary under this Act shall be final and conclusive: *Provided*, That the scope and nature of such determinations shall not be inconsistent with the provisions of the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(Oct. 31, 1949, ch. 792, title IV, § 412, 63 Stat. 1057.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

§ 1430. Retroactive effect

This Act shall not be effective with respect to price support operations for any agricultural commodity for any marketing year or season commencing prior to January 1, 1950, except to the extent that the Secretary of Agriculture shall, without reducing price support theretofore undertaken or announced, elect to apply the provisions of this Act.

(Oct. 31, 1949, ch. 792, title IV, § 413, 63 Stat. 1057.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1431. Disposition of commodities to prevent waste

(a) Eligible recipients; barter; estimates; reprocessing and other charges

In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals and facilities, to the extent that they serve needy persons (including infants and children). In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this subsection, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this subsection, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this subsection the terms ''State'' and ''United States'' include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition. Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.].

(b) Furnishing of eligible commodities for carrying out programs of assistance in developing and friendly countries; availability of eligible commodities for nonprofit and voluntary agencies and cooperatives

(1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out programs of assistance in developing countries and friendly countries under titles II and III of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1721 et seq., 1727 et seq.] and under the Food for Progress Act of 1985 [7 U.S.C. 1736*o*], as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

(2) As used in this subsection, the term ''eligible commodities'' means—

(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof, that the Secretary determines meet the criteria specified in subsection (a) of this section; and

(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the nor-

mal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

(3)(A) Commodities may not be made available for disposition under this subsection in amounts that (i) will, in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

(B)(i) The requirements of section 403(a) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1733(a)] shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

(I) have not traditionally purchased the commodity from the United States; or

(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(C) The Secretary shall take reasonable precautions to ensure that—

(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

(D) If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.

(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period of time. In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.

(5)(A) Section 406 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736] shall apply to the commodities furnished under this subsection.

(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

(6) The cost of commodities furnished under this subsection, and expenses incurred under section 406 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736] in connection with those commodities, shall be in addition to the level of assistance programmed under that Act [7 U.S.C. 1691 et seq.] and shall not be considered expenditures for international affairs and finance.

(7) Eligible commodities furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

(A) Sales and barter that are incidental to the donation of the commodities or products.

(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transshipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

(D)(i) Sales of commodities and products furnished to nonprofit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency or cooperative, of foreign currency proceeds generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

(ii) Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.

In addition, foreign currency proceeds generated in Poland may also be used by governmental and nongovernmental agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of governmental or private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

(I) any project undertaken in Poland under the auspices of the Charitable Commission

of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland;

(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture; and

(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.

(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for foreign currency proceeds in amounts that are, in the aggregate, not less than 10 percent of the aggregate value of all commodities and products furnished, or the minimum tonnage required, whichever is greater, for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under titles II and III of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1721 et seq., 1727 et seq.], and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985 [7 U.S.C. 1736*o*].

(iv) Foreign currency proceeds generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—

(I) as necessary to expedite the transportation of commodities and products furnished under this subsection; or

(II) if the proceeds are generated in a currency generally accepted in the other country.

(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

(E) Sales and barter to cover expenses incurred under paragraph (5)(a).

(F) The provisions of sections 403(i) and 407(c)[1] of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1733(i), 1736a(c)] shall apply to donations, sales and barters of eligible commodities under this subsection.

The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.

(8)(A) To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

(B) The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).

(9)(A) Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clauses (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.

(B) Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—

(i) the quantity of commodities furnished for such sale or barter;

(ii) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

(iii) how such funds and services were used;

(iv) the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this subsection in such fiscal year such use represented;

(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

(vii) the extent to which sales, barter, or uses—

(I) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made,

(II) affect usual marketings of the United States,

[1] See References in Text note below.

(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph (7).

(Oct. 31, 1949, ch. 792, title IV, § 416, 63 Stat. 1058; July 10, 1954, ch. 469, title III, § 309, formerly § 302, 68 Stat. 458, renumbered § 309, Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(1), 91 Stat. 548; amended May 28, 1956, ch. 327, title II, § 212, 70 Stat. 203; July 2, 1958, Pub. L. 85–483, § 1, 72 Stat. 286; Aug. 26, 1954, ch. 937, title IV, § 402, 68 Stat. 843, as amended July 24, 1959, Pub. L. 86–108, ch. II, § 205(c), 73 Stat. 250; Sept. 27, 1962, Pub. L. 87–703, title II, § 202, 76 Stat. 611; Oct. 8, 1964, Pub. L. 88–638, § 4, 78 Stat. 1038; Nov. 11, 1966, Pub. L. 89–808, § 3(c), 80 Stat. 1538; Apr. 17, 1970, Pub. L. 91–233, 84 Stat. 199; Oct. 30, 1972, Pub. L. 92–603, title IV, § 411(g), 86 Stat. 1492; Sept. 29, 1977, Pub. L. 95–113, title XIII, § 1302(a)(2), 91 Stat. 979; Sept. 8, 1982, Pub. L. 97–253, title I, § 110, 96 Stat. 766; Apr. 10, 1984, Pub. L. 98–258, title V, § 502, 98 Stat. 137; Aug. 8, 1985, Pub. L. 99–83, title X, § 1007, 99 Stat. 271; Dec. 23, 1985, Pub. L. 99–198, title XI, §§ 1109, 1129, 99 Stat. 1467, 1486; Mar. 20, 1986, Pub. L. 99–260, § 16, 100 Stat. 55; Dec. 22, 1987, Pub. L. 100–203, title I, § 1503, 101 Stat. 1330–28; Apr. 4, 1988, Pub. L. 100–277, §§ 1–5, 102 Stat. 67, 68; Aug. 23, 1988, Pub. L. 100–418, title II, § 2225, 102 Stat. 1337; Nov. 5, 1990, Pub. L. 101–513, title V, § 562(part), 104 Stat. 2032; Nov. 28, 1990, Pub. L. 101–624, title XV, §§ 1514, 1575, title XVII, § 1771(b)(2), 104 Stat. 3662, 3702, 3807; Dec. 13, 1991, Pub. L. 102–237, title III, § 333, 105 Stat. 1859; May 20, 1992, Pub. L. 102–289, § 1, 106 Stat. 176; Aug. 23, 1994, Pub. L. 103–306, title V, § 576(c), 108 Stat. 1654; Apr. 4, 1996, Pub. L. 104–127, title II, § 264, 110 Stat. 974.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (a), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsec. (b)(1), (6), (7)(D)(iii), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. Titles II and III of the Act are classified generally to subchapters III (§ 1721 et seq.) and III–A (§ 1727 et seq.), respectively, of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

The Food for Progress Act of 1985, referred to in subsec. (b)(1), (7)(D)(iii), is Pub. L. 99–198, title XI, § 1110, Dec. 23, 1985, 99 Stat. 1472, which is classified to section 1736*o* of this title.

This Act, referred to in subsec. (b)(3)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 2226 of the American Aid to Poland Act of 1988, referred to in subsec. (b)(7)(D)(ii), is section 2226 of Pub. L. 100–418, which is set out as a note below.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736a(c)], referred to in subsec. (b)(7)(F), was redesignated section 407(b) of that Act [7 U.S.C. 1736a(b)] by Pub. L. 104–66, title I, § 1011(e)(2), Dec. 21, 1995, 109 Stat. 709.

AMENDMENTS

1996—Subsec. (b)(7). Pub. L. 104–127, § 264(1)(A)(ii), inserted concluding provisions and struck out former concluding provisions which read as follows: "No portion of the proceeds or services realized from sales or barter under this paragraph may be used to meet operating and overhead expenses, except as otherwise provided in subparagraph (C) and except for personnel and administrative costs incurred by local cooperatives."

Subsec. (b)(7)(D)(iv). Pub. L. 104–127, § 264(1)(A)(i), substituted "a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—" and subcls. (I) and (II) for "one year of acquisition of such currency, except that the Secretary may permit the use of such proceeds (I) in countries other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, (II) after one year of acquisition as appropriate to achieve the purposes of clause (i), and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country."

Subsec. (b)(8)(C). Pub. L. 104–127, § 264(1)(B), struck out subpar. (C), which related to proposals by nonprofit and voluntary agencies or cooperatives to make eligible commodities available, notice and comment on issuance of final guidelines, and transmission of orders to Commodity Credit Corporation.

Subsec. (b)(10) to (12). Pub. L. 104–127, § 264(1)(C), struck out pars. (10) to (12) which, in par. (10), authorized Secretary to make available for disposition in each of fiscal years 1986 through 1990 not less than specified minimum quantities of eligible commodities, in par. (11), authorized Secretary to furnish eligible commodities in connection with concessional sales agreements entered into under title I of the Agricultural Trade Development and Assistance Act of 1954 or other statutes, or agricultural export bonus or promotion programs carried out under the Commodity Credit Corporation Charter Act or other statutes, and, in par. (12), authorized funding for fiscal year 1988 for technical assistance for sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.

Subsec. (c). Pub. L. 104–127, § 264(2), struck out subsec. (c), which established 2 year pilot program relating to barter or exchange of dairy products for ultra-high temperature processed fluid milk, and required reports to Congress.

1994—Subsec. (b)(7)(D)(ii)(IV). Pub. L. 103–306 added subcl. (IV).

1992—Subsec. (b)(7)(D)(iv). Pub. L. 102–289 substituted "(II)" for "and (II)" and inserted before period at end ", and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country".

1991—Subsec. (b)(7)(F). Pub. L. 102–237 made technical amendment to directory language of Pub. L. 101–624, § 1514(5)(B). See 1990 Amendment note below.

1990—Subsec. (a)(3). Pub. L. 101–624, § 1771(b)(2), substituted "hospitals and facilities, to the extent that they serve needy persons (including infants and children)" for "hospitals, to the extent that needy persons are served".

Subsec. (b)(1). Pub. L. 101–624, § 1514(1), inserted reference to title III of Agricultural Trade Development and Assistance Act of 1954.

Subsec. (b)(3)(B)(i). Pub. L. 101–624, § 1514(2), substituted reference to section 403(a) of Agricultural

Trade Development and Assistance Act of 1954 for reference to section 401(b) of such Act.

Subsec. (b)(5)(A). Pub. L. 101–624, § 1514(3), substituted reference to section 406 of Agricultural Trade Development and Assistance Act of 1954 for reference to section 203 of such Act.

Subsec. (b)(6). Pub. L. 101–624, § 1514(4), substituted reference to section 406 of Agricultural Trade Development and Assistance Act of 1954 for reference to section 203 of such Act.

Subsec. (b)(7)(D)(ii). Pub. L. 101–513 substituted ''governmental and nongovernmental'' for ''such'' and inserted ''governmental or'' after ''activities of''.

Subsec. (b)(7)(D)(iii). Pub. L. 101–624, § 1514(5)(A), inserted reference to title III of Agricultural Trade Development and Assistance Act of 1954.

Subsec. (b)(7)(F). Pub. L. 101–624, § 1514(5)(B), as amended by Pub. L. 102–237, added subpar. (F).

Subsec. (d). Pub. L. 101–624, § 1575, struck out subsec. (d) which established pilot program for barter of agricultural commodities for strategic materials not produced in sufficient amounts domestically and for which national stockpile or reserve goals are unmet.

1988—Subsec. (b)(2)(A). Pub. L. 100–277, § 1(a), substituted ''wheat, rice, feed grains'' for ''grains'' and inserted '', and the products thereof,'' after ''price support operations''.

Subsec. (b)(3)(D). Pub. L. 100–277, § 2, added subpar. (D).

Subsec. (b)(4). Pub. L. 100–277, § 3, inserted at end ''In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.''

Subsec. (b)(7). Pub. L. 100–277, § 1(b)(2), in introductory provisions struck out '', and products thereof,'' after ''commodities''.

Subsec. (b)(7)(D)(ii). Pub. L. 100–418 inserted provisions respecting use of foreign currency proceeds generated in Poland and describing activities eligible for such funds.

Pub. L. 100–277, § 4(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''Foreign currency proceeds generated from the sales of commodities and products under this subparagraph shall be used by nonprofit and voluntary agencies, or cooperatives, for activities carried out by the agency or cooperative that will enhance the effectiveness of transportation, distribution, and use of commodities and products donated under this subsection, including food for work programs and cooperative and agricultural projects.''

Subsec. (b)(7)(D)(iii). Pub. L. 100–277, § 4(b), substituted ''10 percent'' for ''5 percent'' and inserted '', or the minimum tonnage required, whichever is greater,'' after ''furnished''.

Subsec. (b)(8)(C). Pub. L. 100–277, § 5, added subpar. (C).

Subsec. (b)(10)(B)(i). Pub. L. 100–277, § 1(b)(1), substituted ''wheat, rice, feed grains,'' for ''grains'' in two places.

1987—Subsec. (b)(12). Pub. L. 100–203 added par. (12).

1986—Subsec. (b)(10)(B). Pub. L. 99–260 inserted ''or, in the case of fiscal year 1986, prior to March 31, 1986'' in two places.

1985—Subsec. (a). Pub. L. 99–198, § 1109(1), struck out provisions that such dairy products could also be donated through foreign governments and public and nonprofit private humanitarian organizations for assistance of needy persons outside the United States, that Commodity Credit Corporation could pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including cost of overseas delivery, and that in order to assure that any such donations for use outside the United States were coordinated with and would complement other United States foreign assistance, such donations had to be coordinated through mechanism designated by President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and were to be in addition to level of assistance programmed under that Act.

Subsec. (b). Pub. L. 99–198, § 1109(2), in amending subsec. (b) generally, substituted provisions relating to furnishing of eligible commodities for purpose of carrying out programs of assistance in developing and friendly countries under title II of the Agricultural Trade Development and Assistance Act of 1954 and section 1736*o* of this title for provisions relating to furnishing of dairy products, rice and wheat (which had been acquired by Commodity Credit Corporation through price support operations) for purpose of carrying out title II of that Act.

Pub. L. 99–83 added applicability to rice acquired by the Commodity Credit Corporation through price support operations.

Subsec. (d). Pub. L. 99–198, § 1129, added subsec. (d).

1984—Pub. L. 98–258 designated existing provisions as subsec. (a), substituted ''subsection'' for ''section'' wherever appearing, and added subsecs. (b) and (c).

1982—Pub. L. 97–253 inserted provision that notwithstanding any other provision of law, dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965, and that such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery, and that in order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.

1977—Pub. L. 95–113 struck out provision that no person who is eligible (or upon application would be eligible) to receive supplemental security income under title XVI of the Social Security Act shall be eligible, with certain exceptions, to participate in any program conducted under this section.

1972—Pub. L. 92–603 inserted provision that persons eligible to receive supplemental security income under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] shall not be eligible to participate in programs conducted under this section, with certain exceptions.

1970—Pub. L. 91–233 changed priorities for sales over donations in the disposition of food commodities acquired under support programs insofar as dairy products, so acquired, are concerned by giving preference to the use of such products in nonprofit school lunch and similar feeding programs.

1966—Pub. L. 89–808 struck out provisions of cl. (4) for donations of excess food commodities to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid of the Foreign Operations Administration or other appropriate Federal agencies and intergovernmental organizations for use in assistance of needy persons and in nonprofit lunch programs outside the United States provisions for payment of charges in case of commodities made available for use within the United States, or their delivery free alongside ship or free on board export carrier at point of export, in the case of commodities made available for use outside the United States, and that assistance to needy persons provided in such cl. (4) be directed toward community and other self-help activities designed to alleviate the causes for the need for such assistance. See section 1721 et seq. of this title.

1964—Pub. L. 88–638 directed that assistance to needy persons, insofar as practicable, be directed toward com-

munity and other self-help activities designed to alleviate the causes of the need.

1962—Pub. L. 87–703 inserted ''and in nonprofit school lunch programs'' after ''needy persons'' in cl. (4).

1959—Pub. L. 86–108 substituted ''waste of commodities whether in private stocks or acquired through price-support operations'' for ''waste of commodities acquired through price-support operations''.

1958—Pub. L. 85–483 permitted donation of food commodities for use in nonprofit summer camps for children.

1956—Act May 28, 1956, authorized payment of cost of processing commodities into a form suitable for home or institutional use.

1954—Act July 10, 1954, amended section generally to eliminate its applicability only to ''food'' commodities; to eliminate the necessity for a finding that commodities are in danger of a loss through ''deterioration or spoilage''; to establish barter as a disposal method; and to expand the list of eligible domestic recipients.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 576(d) of Pub. L. 103–306 provided that: ''The amendments made by this section [amending this section and provisions set out below] shall take effect October 1, 1994.''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1302(b) of Pub. L. 95–113, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(g) of Pub. L. 92–603 provided that the amendment made by that section is effective Jan. 1, 1974.

Pub. L. 93–233, § 8(b)(2), Dec. 31, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94–365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95–59, § 3(2), June 30, 1977, 915 Stat. 255, provided that: ''The last sentence of section 416 of the Act of October 31, 1949 [this section] (as added by section 411(g) of Public Law 92–603) [see 1972 Amendment Note above] shall not be effective for the period ending September 30, 1978.''

[Amendment by Pub. L. 93–335, effective July 1, 1974, see section 1(c) of Pub. L. 93–335, set out as a note under section 1382 of Title 42, The Public Health and Welfare. Section 3 of Pub. L. 95–59 provided in part that the amendment of section 8 of Pub. L. 93–233 by section 3(2) of Pub. L. 95–59 is effective July 1, 1977.]

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(c) of Pub. L. 89–808 provided that the amendment made by that section is effective Jan. 1, 1967.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

DONATION OF SURPLUS AGRICULTURAL COMMODITIES

Section 2223 of Pub. L. 100–418, as amended by Pub. L. 101–513, title V, § 562(part), Nov. 5, 1990, 104 Stat. 2032; Pub. L. 103–306, title V, § 576(a), (b), Aug. 23, 1994, 108 Stat. 1654, provided that:

''(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland[,] the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)], for each of the fiscal years 1995 through 1999, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by governmental and nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission described in section 2226 [of Pub. L. 100–418, set out below] and by the United States chief of diplomatic mission in Poland.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'eligible commodities' has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(2)] and, in addition, includes feed grains, soybeans, and soybean products; and

''(2) the term 'nongovernmental agencies' includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.''

USE OF POLISH CURRENCIES

Section 2224 of Pub. L. 100–418 provided that:

''(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act [Aug. 23, 1988] pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(7)(D)(ii)] (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 [of Pub. L. 100–418, set out below] and by the United States chief of diplomatic mission in Poland.

''(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.''

JOINT COMMISSION

Section 2226 of Pub. L. 100–418 provided that:

''(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 [of Pub. L. 100–418, set out above] and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(7)(D)(ii)] (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

''(b) MEMBERSHIP.—The joint commission shall be composed of—

''(1) appropriate representatives of the Government of Poland;

''(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

''(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.''

BARTER OF AGRICULTURAL COMMODITIES

Section 4309 of Pub. L. 100–418 provided that: ''In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.''

Pub. L. 98–180, title III, § 302, Nov. 29, 1983, 97 Stat. 1151, provided that:

''(a) It is the sense of Congress that the Secretary of Agriculture should exchange or barter, to the maximum extent practicable under the provisions of law specified in subsection (b), commodities (especially dairy products) owned by the Commodity Credit Corporation for materials, goods, and equipment produced in foreign countries.

''(b) The provisions of law referred to in subsection (a) are—

''(1) section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)),

''(2) section 310 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1692) [7 U.S.C. 1727g], and

''(3) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431).''

MINIMUM LEVEL OF FOOD ASSISTANCE

Annual minimum of food assistance made available to foreign countries to be not less than one-third of total amount of foreign economic assistance provided for each fiscal year, see section 4310 of Pub. L. 100–418, set out as a note under section 1691 of this title.

ADDITIONAL LEVELS OF FLOUR, CORNMEAL, WHEAT, SOYBEANS, AND DAIRY PRODUCTS FOR FRIENDLY COUNTRIES IN FISCAL YEARS 1987, 1988, AND 1989

Pub. L. 99–500, § 101(a) [title VI, § 646], Oct. 18, 1986, 100 Stat. 1783, 1783–36, and Pub. L. 99–591, § 101(a) [title VI, § 646], Oct. 30, 1986, 100 Stat. 3341, 3341–36, provided that:

''(1) It is the sense of the Senate that the Secretary of Agriculture should make available not less than $10,000,000 worth of flour and cornmeal using the wheat and cornstocks of the Commodity Credit Corporation. Such flour and cornmeal shall be in addition to the traditional level of assistance made available under section 1114 of the Agriculture and Food Act of 1981 [Pub. L. 97–98, enacting sections 1431e and 4004a of this title and amending section 4004 of this title], section 416(a) of the Agricultural Act of 1949 [7 U.S.C. 1431(a)], section 4 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93–86, 7 U.S.C. 612c note], and any other provision of law administered by the Secretary.

''(2)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's and cooperatives and to governments a total of at least 500,000 metric tons of wheat, 500,000 metric tons of soybeans, and 50 million pounds of dairy products under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(11)(B)], notwithstanding paragraph (11)(c) of section 416(b) of such Act.

''(b) Commodities made available under this section during any fiscal year shall be—

''(1) subject to the agreement of recipient nations—

''(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the 3 preceding years.

''(B) to permit the sale of commodities furnished under this section in the recipient nation and to use the local currency generated from such sales—

''(i) by PVO's and cooperatives to carry out approved programs of assistance in the recipient nation;

''(ii) to operate lending programs in the manner provided for in section 108 of Public Law 480 [probably means former 7 U.S.C. 1708]; and

''(iii) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, during the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under this paragraph if they are used to pay expenses of the United States in the recipient nation.

''(2) No greater than such amounts as is requested by recipient nations.

''(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of these fiscal years.

''(d) It is the sense of Congress that commodities provided for in this subsection be made available to PVO's and cooperatives operating in the Republic of the Philippines, and the government of the Philippines.

''(3)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to the friendly countries, under paragraph (b)(11)(A) of section 416 of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(11)(A)], at least 500,000 metric tons of wheat and 45 million pounds of dairy products, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

''(b) Commodities made available to a nation under this section during any fiscal year shall be—

''(1) subject to the agreement of the Nation—

''(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years.

''(B) to sell any commodities furnished under this section within the nation and to use the local currencies generated from such sales to (i) establish and carry out lending programs in such nations in the manner provided for in section 108 of the Agricultural Trade Development and Assistance Act of 1954 [former 7 U.S.C. 1708] and (ii) reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient Nation.

''(2) No greater than such amounts as is requested by such governments.

''(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

''(d) For purchases [purposes] of this section, the term 'friendly countries' shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

''(e) It is the sense of Congress that commodities provided for in this subsection be made available to the Philippines and friendly countries of Africa.

''(4)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's cooperatives and governments, 460,000 metric tons of wheat, 137 million pounds of dairy products, and 180,000 metric tons of soybeans; under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(11)(B)], notwithstanding paragraph (11)(C) of section 416(b) of such Act.

''(b) Commodities made available to a nation, or PVO's and cooperatives operating in such nation, under this section during any fiscal year shall be—

''(1) subject to the agreement of the nation—

''(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years;

''(B) to permit the sale of commodities furnished under this section within the nation and to use the local currencies generated from such sales (i) by PVO's and cooperatives to carry out approved programs of assistance in the country and (ii) to operate lending programs in the manner provided for in section 108 of Public Law 480 [probably means former 7 U.S.C. 1708]; and

''(C) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient nation.

''(2) No greater than such amounts as is requested by such government.

''(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

''(d) For purposes of this section, the term 'friendly countries' shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

''(e) It is the sense of Congress that of the commodities made available under this subsection—

''(1) 400,000 metric tons of wheat, 80 million pounds of dairy products and 180,000 metric tons of soybeans be made available to Nigeria;

''(2) 1 million metric tons of wheat be made available to friendly countries in Africa, other than Nigeria;

''(3) 30,000 metric tons of soybeans, and 50 million pounds of dairy products be made available to India; and

''(4) 60,000 metric tons of wheat and 7 million pounds of dairy products be made available to Bangladesh.''

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES WITH UNEXPECTED OR AVAILABLE FUNDS; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS; PARTICIPATION IN PROGRAM OF INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

Authority of Secretary to purchase and furnish agricultural commodities under commodity distribution programs and participation of individuals receiving supplemental security income benefits in such programs, see section 4 of Pub. L. 93–86, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PERIOD ENDING JUNE 30, 1977

Individuals receiving supplemental security income benefits not to be considered members of households for any purpose of the food distribution program for families under this section for any month during the period ending June 30, 1977, if, for such month, such individual resides in a State which provides State supplementary payments of the type described in section 1382e(a) of Title 42, The Public Health and Welfare, and the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

HOME ECONOMICS TRAINING

Pub. L. 86–756, Sept. 13, 1960, 74 Stat. 899, as amended by Pub. L. 87–179, Aug. 30, 1961, 75 Stat. 411, provided: ''That schools receiving surplus foods pursuant to clause (3) of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) [clause (3) of this section] or section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) are authorized to use such foods in training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.''

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR, CORNMEAL AND PROCESSED FOOD GRAIN PRODUCTS

Pub. L. 85–683, Aug. 19, 1958, 72 Stat. 635, as amended by Pub. L. 88–550, Aug. 31, 1964, 78 Stat. 755; Pub. L. 97–98, title XII, § 1209, Dec. 22, 1981, 95 Stat. 1280, provided: ''That at any time Commodity Credit Corporation has any grain available for donation pursuant to clause (3) or (4) [now deleted] of section 416 of the Agricultural Act of 1949, as amended [this section], section 210 of the Agricultural Act of 1956 [section 1859 of this title], or title II of the Agricultural Trade Development and Assistance Act, as amended [sections 1721 to 1726 of this title], the Corporation, in lieu of processing all or any part of such grain into human food products, may purchase such processed food products in quantities not to exceed the equivalent of the respective grain available for donation on the date of such purchase and donate such processed food products pursuant to clause (3) or (4) of such section 416, and to such section 210, and make such processed food products available to the President pursuant to such title II, and may sell, without regard to the provisions of section 407 of the Agricultural Act of 1949, as amended [section 1427 of this title], a quantity of the grain equivalent to the processed food products so purchased: *Provided*, That no food product purchased pursuant to the authority contained herein shall constitute less than 50 per centum by weight of the grain from which processed (except that this limitation does not apply in the case of the protein byproduct resulting from the production of fuel alcohol from agricultural commodities), or contain any additive other than for normal vitamin enrichment, preservative, and bleaching purposes.''

IRISH POTATOES ACQUIRED UNDER 1949 PRICE SUPPORT PROGRAM

Section 3 of act Mar. 31, 1950, ch. 81, 64 Stat. 41, made Irish potatoes acquired under the 1949 price support program available to school-lunch programs, the Bureau of Indian Affairs, Federal, State, or local public welfare organizations, private or international nonprofit welfare organizations, penal institutions, and nonprofit hospitals.

BARTERING AUTHORITY OF SECRETARY

Bartering authority of Secretary of Agriculture, exchange of agricultural commodities for strategic materials and materials for other purposes, cooperation of agencies, and assistance to cooperatives, see section 1692 of this title.

CROSS REFERENCES

Donations for school feeding programs abroad; student financing; and priorities, see section 1431d of this title.

Sale of surplus agricultural commodities for foreign currencies, see section 1691 et seq., of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1431b, 1431c, 1431d, 1444, 1446a, 1736a, 1736*o*, 4004, 5201, 7301 of this title; title 22 sections 1922, 5413, 5425; title 42 sections 1758, 1761, 1762a, 1766, 1777, 1786, 3030a, 3045f; title 46 App. section 1241f.

§ 1431a. Cotton donations to educational institutions

Commodity Credit Corporation is authorized, on such terms as the Secretary of Agriculture may approve, to donate cotton acquired through its price support operations to educational institutions for use in the training of students in the processing and manufacture of cotton into textiles.

(Pub. L. 85–835, title V, § 505, Aug. 28, 1958, 72 Stat. 996.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1958, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1431b. Distribution of surplus commodities to other United States areas

Notwithstanding any other provision of law those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 612c of this title and section 1431 of this title.

(Pub. L. 85–931, § 9, Sept. 6, 1958, 72 Stat. 1792; Pub. L. 87–703, title II, § 204, Sept. 27, 1962, 76 Stat. 611; Pub. L. 89–808, § 3(a), Nov. 11, 1966, 80 Stat. 1538.)

CODIFICATION

Section was not enacted as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1966—Pub. L. 89–808 struck out special authority of the Commodity Credit Corporation for purchase of fats and oils for donation abroad, now included in the general authority provided by section 1721 et seq. of this title.

1962—Pub. L. 87–703 inserted ''and in nonprofit school lunch programs'' after ''needy persons''.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(a) of Pub. L. 89–808 provided that the amendment made by that section is effective Jan. 1, 1967.

CROSS REFERENCES

Donations for school feeding programs abroad, student financing, see section 1431d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431d of this title.

§ 1431c. Enrichment and packaging of cornmeal, grits, rice, and white flour available for distribution

(a) In order to insure the nutritional value of cornmeal, grits, rice, and white flour when such foods are made available for distribution under section 1431(3)[1] of this title or for distribution to schools under the National School Lunch Act [42 U.S.C. 1751 et seq.] or any other Act, such foods shall be enriched so as to meet the standards for enriched cornmeal, enriched corn grits, enriched rice, or enriched flour, as the case may be, prescribed in regulations promulgated under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]; and in order to protect the nutritional value and sanitary quality of such enriched foods during transportation and storage such foods shall be packaged in sanitary containers. For convenience and ease in handling, the weight of any sanitary container when filled shall not exceed fifty pounds unless a larger container is requested by the recipient agency. Nothing in this section shall prohibit the distribution of fortified parboiled rice which is substantially equal in nutritional value to that of enriched rice.

(b) The term ''sanitary container'' means any container of such material and construction as (1) will not permit the infiltration of foreign matter into the contents of such container under ordinary conditions of shipping and handling, and (2) will not, for a period of at least one year, disintegrate so as to contaminate the contents of the container, necessitating the washing of the contents prior to use.

(Pub. L. 86–341, title II, § 201, Sept. 21, 1959, 73 Stat. 610; Pub. L. 87–803, Oct. 11, 1962, 76 Stat. 910.)

REFERENCES IN TEXT

Section 1431(3) of this title, referred to in subsec. (a), was redesignated as section 1431(a)(3) of this title by Pub. L. 98–258, title V, § 502(1), Apr. 10, 1984, 98 Stat. 137.

The National School Lunch Act, referred to in subsec. (a), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

CODIFICATION

Section was not enacted as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–803 inserted provisions requiring the enrichment of rice to meet the standards for enriched rice, empowered recipient agencies to request containers larger than 50 pounds, and provided that nothing in this section shall prohibit the distribution of fortified parboiled rice which is substantially equal in nutritional value to that of enriched rice.

§ 1431d. Donations for school feeding programs abroad; student financing; priorities

In any school feeding programs undertaken on and after September 27, 1962 outside the United

[1] See References in Text note below.

States pursuant to section 1431 of this title, section 308 of Public Law 480 (83d Congress), as amended, and section 1431b of this title, the Secretary shall receive assurances satisfactory to him that, insofar as practicable, there will be student participation in the financing of such programs on the basis of ability to pay, and such programs shall be undertaken with the understanding that commodities will be available for those programs only in accordance with the provisions of such statutes and that commodities made available under section 1431 of this title will be available only in accordance with the priorities established in such section.

(Pub. L. 87–703, title II, § 205, Sept. 27, 1962, 76 Stat. 611.)

REFERENCES IN TEXT

Section 308 of Public Law 480 (83d Congress), referred to in text, which was classified to section 1697 of this title, was repealed by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1431e. Distribution of surplus commodities to special nutrition projects; reprocessing agreements with private companies

(1) Notwithstanding any other provision of law, whenever Government stocks of commodities are acquired under the price support programs and are not likely to be sold by the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, such commodities shall be made available without charge or credit to nutrition projects under the authority of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), to child nutrition programs providing food service, and to food banks participating in the special nutrition projects established under section 4004 of this title. Such distribution may include bulk distribution to congregate nutrition sites and to providers of home delivered meals under the Older Americans Act of 1965. The Commodity Credit Corporation is authorized to use available funds to operate the program under this subsection and to further process products to facilitate bonus commodity use. Commodities made available under this section shall include, but not be limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal.

(2)(A) Effective through September 30, 2002, whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of such commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies. The expense of reprocessing shall be paid by such eligible recipient agencies.

(B) To maintain eligibility to enter into, and to continue, any agreement with the Secretary of Agriculture under subparagraph (A), a private company shall annually settle all accounts with the Secretary and any appropriate State agency regarding commodities processed under such agreements.

(C) Whenever commodities are made available to agencies pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), the Secretary shall encourage access to processed end products containing the commodities when in the Secretary's judgment it is cost effective. The requirements of this subparagraph shall be met in the most efficient and effective way possible. The Secretary may, among other alternatives, use direct purchase, State option contracts authorized under section 3A of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note), State processing programs, and (beginning in fiscal year 1994) agreements with private companies operated as a part of the national commodity processing program.

(D) In each of fiscal years 1992, 1993, and 1994, the Secretary shall conduct a pilot project in not more than three States under which any commodity made available to agencies pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) that the Secretary determines to be appropriate for reprocessing is made available to the agencies as reprocessed end products. The reprocessing shall be performed pursuant to agreements with private companies, at the expense of the agencies, and operated as part of the national commodity processing program established under subparagraph (A). In determining the appropriateness of the commodities to be reprocessed under the pilot project, the Secretary shall consider the common needs of the agencies and the availability of processors.

(Pub. L. 97–98, title XI, § 1114(a), Dec. 22, 1981, 95 Stat. 1269; Pub. L. 99–198, title XV, § 1567(a), (b), Dec. 23, 1985, 99 Stat. 1591, 1592; Pub. L. 100–237, § 6, Jan. 8, 1988, 101 Stat. 1740; Pub. L. 101–624, title XVII, § 1775, Nov. 28, 1990, 104 Stat. 3813; Pub. L. 102–237, title IX, § 921, Dec. 13, 1991, 105 Stat. 1887; Pub. L. 104–127, title IV, § 405, Apr. 4, 1996, 110 Stat. 1029.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in par. (1), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1996—Par. (2)(A). Pub. L. 104–127 substituted ''2002'' for ''1995''.

1991—Par. (2)(D). Pub. L. 102–237 substituted ''1992, 1993, and 1994'' for ''1992 and 1993''.

1990—Par. (2)(A). Pub. L. 101–624, § 1775(a), substituted ''1995'' for ''1990''.

Par. (2)(C), (D). Pub. L. 101–624, § 1775(b), added subpars. (C) and (D).

1988—Par. (2)(A). Pub. L. 100–237 substituted ''September 30, 1990'' for ''June 30, 1987''.

1985—Pub. L. 99–198 designated existing provisions as par. (1), inserted provision directing that commodities made available under this section include, but not be limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal, and added par. (2).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

NATIONAL DONATED COMMODITY PROCESSING PROGRAMS

Pub. L. 99–500, title III, § 364, Oct. 18, 1986, 100 Stat. 1783–368, and Pub. L. 99–591, title III, § 364, Oct. 30, 1986, 100 Stat. 3341–371; Pub. L. 99–661, div. D, title IV, § 4404, Nov. 14, 1986, 100 Stat. 4079, provided that: ''In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.''

§ 1432. Extension of price support on long staple cotton seeds and products

Any price support program in effect on cottonseed or any of its products shall be extended to the same seed and products of the cottons defined under section 1347(a) of this title.

(Oct. 31, 1949, ch. 792, title IV, § 420, as added July 17, 1952, ch. 933, § 3(2), 66 Stat. 759.)

REFERENCES IN TEXT

Section 1347 of this title, referred to in text, was repealed by Pub. L. 98–88, § 2, Aug. 26, 1983, 97 Stat. 494.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1433. Repealed. Pub. L. 100–387, title I, § 101(b)(3), Aug. 11, 1988, 102 Stat. 931

Section, act Oct. 31, 1949, ch. 792, title IV, § 421, as added Sept. 11, 1964, Pub. L. 88–585, § 2, 78 Stat. 927, related to penalties for misuse of feed intended to relieve distress or preserve foundation herds. See section 1471j of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

§ 1433a. Forgiveness of violations; determinations

Notwithstanding any other provision of law, whenever a producer samples, turns, moves, or replaces grain or any other commodity which is security for a Commodity Credit Corporation producer loan or is held under a producer reserve program, and does so in violation of law or regulation, the appropriate county committee established under section 590h(b) of title 16 may forgive some or all of the penalties and requirements that would normally be imposed on the producer by reason of the violation, if such committee determines that (1) the violation occurred inadvertently or accidentally, because of lack of knowledge or understanding of the law or regulation, or because the producer or the producer's agent acted to prevent spoilage of the commodity, and (2) the violation did not result in harm or damage to the rights or interests of any person. The county committee shall furnish a copy of its determination to the Administrator of the Agricultural Stabilization and Conservation Service and the appropriate State committee established under section 590h(b) of title 16. The determination may be disapproved by either the Administrator or the State committee within sixty days after receipt of a copy of the determination. Any determination not disapproved by the Administrator or such State committee within such sixty-day period shall be considered approved.

(Oct. 31, 1949, ch. 792, title IV, § 422, as added Dec. 22, 1981, Pub. L. 97–98, title X, § 1002, 95 Stat. 1260.)

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1433b. Processing of surplus agricultural commodities into liquid fuels and agricultural commodity byproducts

(a) Authority of Commodity Credit Corporation; terms and conditions established by Secretary; fuel prices

Notwithstanding any other provision of law, in order to prevent the accumulation of excessive stocks of agricultural commodities through the price support and stabilization operations of the Commodity Credit Corporation[1] the Corporation may, under terms and conditions established by the Secretary, make its accumulated stocks of agricultural commodities available, at no cost or reduced cost, to encourage the purchase of such commodities for the production of liquid fuels and agricultural commodity byproducts. In carrying out the program established by this section, the Secretary shall ensure, insofar as possible, that any use of agricultural commodities made available be made in such manner as to encourage increased use and avoid displacing usual marketings of agricultural commodities.

(b) Feasibility of processing

In determining the feasibility of providing for the processing of Commodity Credit Corporation stocks of commodities under subsection (a) of

[1] So in original. Probably should be followed by a comma.

this section, the Secretary shall consider the nature of the commodities, and the acquisition, transportation, handling, storage, interest, and other costs associated with acquiring and maintaining such stocks, including the effect of such stocks in depressing commodity prices, as well as the value and utility of such stocks when processed into liquid fuels and agricultural commodity byproducts.

(c) Annual report to Congress

Not later than one hundred and twenty days after October 21, 1982, and annually thereafter, the Secretary shall report to the Congress with respect to the operation of this section, including any recommendations for legislative changes the Secretary finds necessary with respect to the authority provided in this section.

(Oct. 31, 1949, ch. 792, title IV, § 423, as added Oct. 21, 1982, Pub. L. 97–358, § 2, 96 Stat. 1714; amended Dec. 23, 1985, Pub. L. 99–198, title X, § 1024, 99 Stat. 1460.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–198 substituted provision authorizing the Corporation to make its accumulated agricultural commodities stocks available at no cost or reduced cost to encourage the purchase thereof for the production of liquid fuels and commodity byproducts, with any use of such commodities to be made in such a manner as to encourage increased use and avoid displacing usual marketings of such commodities for provision authorizing the Corporation to provide for processing of its accumulated stock into liquid fuels and commodity byproducts to be either made available to Federal agencies to meet their regular or emergency needs or to be sold commercially by the Corporation, at a price determined by the Secretary notwithstanding any other provisions of law and in a manner so as not to disrupt the prices in commercial markets of agriculturally-derived liquid fuel.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1433c. Advance recourse commodity loans

Notwithstanding any other provision of this Act, the Secretary may make advance recourse loans available to producers of the commodities of the 1986 through 1990 crops for which nonrecourse loans are made available under this Act if the Secretary finds that such action is necessary to ensure that adequate operating credit is available to producers. Such recourse loans may be made available under such reasonable terms and conditions as the Secretary may prescribe, except that the Secretary shall require that a producer obtain crop insurance for the crop as a condition of eligibility for a loan.

(Oct. 31, 1949, ch. 792, title IV, § 424, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1003, 99 Stat. 1447.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section 1003 of Pub. L. 99–198 provided that this section is effective for the 1986 through 1990 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1433c–1 of this title.

§ 1433c–1. Advance recourse loans

(a) Availability; due date; procedures for repayment; applicability; security; limitation

It is the sense of Congress that the Secretary of Agriculture carry out a program authorized by section 424 of the Agricultural Act of 1949 [7 U.S.C. 1433c]. Such program, if implemented, shall provide for the following:

(1) Advance recourse loans shall be made available only to those producers of a commodity who are unable to obtain sufficient credit elsewhere to finance the production of the 1986 crop of that commodity, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes (as determined by the Secretary) in the community in or near which the applicant resides. A producer who has received a commitment or been furnished sufficient credit or a loan for production of the 1986 crop of a commodity shall not be eligible for an advance recourse loan to finance the production of that commodity for such crop year.

(2) Advance recourse loans shall be made available to producers of a commodity at the applicable nonrecourse loan rate for the commodity (as determined by the Secretary). Within the limits set out in paragraphs (5) and (7), advance recourse loans shall be available—

(A) to producers of wheat, feed grains, cotton, and rice who agree to participate in the program announced for the commodity on an amount of the commodity equal to one-half of the farm program yield for the commodity multiplied by the farm program acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary;

(B) to producers of tobacco and peanuts who are on a farm for which a marketing quota or poundage quota has been established on an amount of the commodity equal to one-half of the farm marketing quota or poundage quota for the commodity, as determined by the Secretary; and

(C) to producers of other commodities on an amount of the commodity equal to one-half of the farm yield for the commodity multiplied by the farm acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary.

(3) An advance recourse loan under section 424 [7 U.S.C. 1433c] shall come due at such time immediately following harvest as the Secretary determines appropriate. Each loan contract entered into under section 424 shall

specify the date on which the loan is to come due.

(4)(A) The Secretary shall establish procedures, when practicable, under which a producer, simultaneously with repayment of his recourse loan, may obtain a nonrecourse loan on his crop (as otherwise provided for in the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.]) in an amount sufficient to repay his recourse loan.

(B) In cases in which nonrecourse loans under such Act are not normally made available directly to producers, the Secretary shall establish procedures under which a producer may repay a recourse loan at the same time the producer receives advances or other payment from the producer's disposition of his crop.

(5) Advance recourse loans shall be made available as needed solely to cover costs involved in the production of the 1986 crop that are incurred or are outstanding on or after March 20, 1986.

(6) To obtain an advance recourse loan, the producer on a farm must—

(A) provide as security for the loan a first lien on the crop covered by the loan or provide such other security as may be available to the producer and determined by the Secretary to be adequate to protect the Government's interests; and

(B) obtain multiperil crop insurance, if available, to protect the crop that serves as security for the loan.

If a producer does not have multiperil crop insurance and is located in a county in which the signup period for multiperil crop insurance has expired, the producer shall be required to obtain other crop insurance, if available.

(7) The total amount in advance recourse loans that may be made to a producer under section 424 [7 U.S.C. 1433c] may not exceed $50,000.

(8) An advance recourse loan may be made available only to a producer who agrees to comply with such other terms and conditions determined appropriate by the Secretary and consistent with the provisions of section 424 [7 U.S.C. 1433c].

(b) Use of Commodity Credit Corporation, Agricultural Stabilization and Conservation Service, and county committees

The Secretary shall carry out the program provided for under section 424 [7 U.S.C. 1433c] through the Commodity Credit Corporation, using the services of the Agricultural Stabilization and Conservation Service and the county committees established under section 590h(b) of title 16 to make determinations of eligibility with respect to the credit test under subsection (a)(1) of this section, and determinations as to the sufficiency of security under subsection (a)(6) of this section. The Secretary may use such committees for such other purposes as the Secretary determines appropriate in carrying out section 424.

(c) Regulations

It is further the sense of Congress that the Secretary of Agriculture issue or, as appropriate, amend regulations to implement any program established under section 424 [7 U.S.C. 1433c] as soon as practicable, but not later than 15 days after March 20, 1986. Loans and other assistance provided under such program shall be made available beginning on the date such regulations are issued or amended.

(Pub. L. 99–260, § 13, Mar. 20, 1986, 100 Stat. 53.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a)(4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Improvements Act of 1986, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1433d. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title IV, § 425, as added Dec. 19, 1989, Pub. L. 101–239, title I, § 1003(a), 103 Stat. 2108, related to reduction of deficiency payments. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 1003(a) of Pub. L. 101–239 provided that this section is effective only for the 1990 crops.

§ 1433e. Repealed. Pub. L. 103–354, title II, § 281(b), Oct. 13, 1994, 108 Stat. 3233

Section, act Oct. 31, 1949, ch. 792, title IV, § 426, as added Nov. 28, 1990, Pub. L. 101–624, title XI, § 1132(a), 104 Stat. 3512; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 113(12), 105 Stat. 1838, related to appeals from determinations by State and county committees under Agricultural Act of 1949 and other Acts administered by Agricultural Stabilization and Conservation Service. See section 6991 et seq. of this title.

§ 1433f. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(I), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title IV, § 427, as added Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(1), 108 Stat. 3207, required producer to obtain at least catastrophic risk protection insurance coverage as condition of receiving any benefit (including payments) for each of 1995 and subsequent crops of tobacco, rice, extra long staple cotton, upland cotton, feed grains, wheat, peanuts, oilseeds, and sugar.

§ 1434. Encouragement of production of crops of which United States is a net importer and for which price support programs are not in effect; authority to plant on set-aside acreage with no reduction in payment rate

Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such crop on set-aside acreage and with no reduction in the rate of payment for the commodity.

(Pub. L. 91–524, title VIII, § 814, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, known as the Agricultural Act of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1435. Production of commodities for conversion into alcohol or hydrocarbons for use as motor fuels or other fuels; terms and conditions; determinations; payments, etc., for program

(a) The Secretary of Agriculture shall permit, subject to such terms and conditions as the Secretary shall prescribe, all or any part of the acreage set aside or diverted under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] from the production of a commodity for any crop year to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel, if the Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of price support programs, and will not adversely affect farm income.

(b)(1) During any year in which no set-aside or diversion of acreage is in effect under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel. Under such program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to such production.

(2) The payments under this subsection shall be made at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of commodities for such conversion.

(3) The Secretary may issue any regulations necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(Pub. L. 95–113, title XX, § 2001, as added Pub. L. 96–294, title II, § 260(a), June 30, 1980, 94 Stat. 709.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsecs. (a) and (b)(1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1977 as added by the Biomass Energy and Alcohol Fuels Act of 1980 which is title II of the Energy and Security Act, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1358–1, 1463, 1736f, 5822 of this title.

§ 1441. Price support levels

The Secretary of Agriculture (hereinafter called the ''Secretary'') is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections (a) to (c) of this section as follows:

(a) For tobacco (except as otherwise provided herein), corn, and wheat, if the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 102	90
More than 102 but not more than 104	89
More than 104 but not more than 106	88
More than 106 but not more than 108	87
More than 108 but not more than 110	86
More than 110 but not more than 112	85
More than 112 but not more than 114	84
More than 114 but not more than 116	83
More than 116 but not more than 118	82
More than 118 but not more than 120	81
More than 120 but not more than 122	80
More than 122 but not more than 124	79
More than 124 but not more than 126	78
More than 126 but not more than 128	77
More than 128 but not more than 130	76
More than 130	75

For rice of the 1959 and 1960 crops, the level of support shall be not less than 75 per centum of the parity price. For rice of the 1961 crop the level of support shall be not less than 70 per centum of the parity price. For the 1962 and subsequent crops of rice the level of support shall be not less than 65 per centum of the parity price.

(b) For cotton and peanuts, if the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 108	90
More than 108 but not more than 110	89
More than 110 but not more than 112	88
More than 112 but not more than 114	87
More than 114 but not more than 116	86
More than 116 but not more than 118	85
More than 118 but not more than 120	84
More than 120 but not more than 122	83
More than 122 but not more than 124	82
More than 124 but not more than 125	81
More than 125 but not more than 126	80
More than 126 but not more than 127	79
More than 127 but not more than 128	78
More than 128 but not more than 129	77
More than 129 but not more than 130	76

More than 130 75

(c) For tobacco, if marketing quotas are in effect, the level of support shall be 90 per centum of the parity price.

(d) Notwithstanding the foregoing provisions of this section—

(1) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be 90 per centum of the parity price for the 1950 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(2) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be not less than 80 per centum of the parity price for the 1951 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(3) the level of price support to cooperators for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity; and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;

(4) Repealed. Oct. 31, 1949, ch. 792, title I, §104(b)(3), as added Aug. 28, 1958, Pub. L. 85–835, title II, §201, 72 Stat. 994.

(5) the price support may be made available to noncooperators at such levels, not in excess of the level of price support to cooperators, as the Secretary determines will facilitate the effective operation of the program;

(6) except as provided in subsection (c) of this section and section 1422 of this title, the level of support to cooperators shall be not more than 90 per centum and not less than 82½ per centum of the parity price for the 1955 crop of any basic agricultural commodity with respect to which producers have not disapproved marketing quotas; within such limits, the minimum level of support shall be fixed as provided in subsections (a) and (b) of this section;

(7) Where a State is designated under section 1335(e) of this title, as outside the commercial wheat-producing area for any crop of wheat, the level of price support for wheat to cooperators in such State for such crop of wheat shall be 75 per centum of the level of price support to cooperators in the commercial wheat-producing area.

(e) RICE.—The Secretary shall make available to producers of each crop of rice on a farm price support at a level that is not less than 50 percent, or more than 90 percent of the parity price for rice as the Secretary determines will not result in increasing stocks of rice to the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, §§101, 104(b)(3), 63 Stat. 1051; July 17, 1952, ch. 933, §§2, 3(1), 66 Stat. 759; Aug. 28, 1954, ch. 1041, title II, §§201, 202, 68 Stat. 899; Apr. 25, 1957, Pub. L. 85–28, 71 Stat. 27; July 2, 1958, Pub. L. 85–497, 72 Stat. 296; Aug. 28, 1958, Pub. L. 85–835, title II, §201, title III, §302(a), 72 Stat. 993, 994; Feb. 20, 1960, Pub. L. 86–389, §2, 74 Stat. 7; Aug. 11, 1968, Pub. L. 90–475, §5, 82 Stat. 702; Feb. 16, 1976, Pub. L. 94–214, title I, §102, 90 Stat. 183; Sept. 29, 1977, Pub. L. 95–113, title VI, §607, title VII, §702, 91 Stat. 940; Dec. 31, 1979, Pub. L. 96–176, 93 Stat. 1290; Mar. 18, 1980, Pub. L. 96–213, §4(a), 94 Stat. 119; Sept. 26, 1980, Pub. L. 96–365, title II, §201(a), 94 Stat. 1319; Dec. 22, 1981, Pub. L. 97–98, title V, §508, title VI, §602, 95 Stat. 1242; Sept. 8, 1982, Pub. L. 97–253, title I, §125, 96 Stat. 771; Aug. 26, 1983, Pub. L. 98–88, §2, 97 Stat. 494; Apr. 10, 1984, Pub. L. 98–258, title IV, §§401, 402, 98 Stat. 135; Dec. 23, 1985, Pub. L. 99–198, title VI, §602, 99 Stat. 1427; Apr. 4, 1996, Pub. L. 104–127, title I, §171(b)(3), 110 Stat. 938.)

REFERENCES IN TEXT

Subsec. (e) of section 1335 of this title, referred to in subsec. (d)(7), was eliminated and other provisions substituted by Pub. L. 87–703, title III, §315, Sept. 27, 1962, 76 Stat. 621.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–127 added subsec. (e).

1985—Subsec. (i)(1). Pub. L. 99–198 temporarily redesignated existing provisions as subpar. (A) and added subpars. (B) to (D). See Effective and Termination Dates of 1985 Amendment note below.

1984—Subsec. (i)(2)(C). Pub. L. 98–258, §401, substituted "and $11.90 per hundredweight for the 1984 and 1985 crops" for "$11.90 per hundredweight for the 1984 crop, and $12.40 per hundredweight for the 1985 crop".

Subsec. (i)(5)(A). Pub. L. 98–258, §402(1), substituted "third, fourth, and fifth" for "third and fourth" after "Notwithstanding any other provision of law, except as provided in the".

Pub. L. 98–258, §402(2), inserted sentence providing: "For the 1985 crop of rice, if the Secretary estimates that the quantity of rice on hand in the United States on July 31, 1985 (not including any quantity of rice produced in the United States during calendar year 1985), will exceed twenty-five million hundredweight, the Secretary shall provide for a combination of an acreage limitation program as described under this subparagraph and a land diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 25 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction under the land diversion program equal to the difference between the total reduction for the farm and the 20 per centum reduction under the acreage limitation program."

Pub. L. 98–258, §402(3), substituted "1983 and 1985 crops of rice" for "1983 crop of rice" after "As a condition of eligibility for loans, purchases, and payments on the".

Subsec. (i)(5)(B). Pub. L. 98–258, §402(4), inserted sentence providing that if the Secretary implements a land diversion program for the 1985 crop of rice under the provisions of subparagraph (A), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5 per centum, in addition to the reduction required under the acreage limitation program under subparagraph (A), and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph.

Pub. L. 98–258, §402(5), substituted "Diversion payments made to producers under this subparagraph shall be made in an amount computed by multiplying" for "Such payments shall be made in an amount computed by multiplying".

Pub. L. 98–258, § 402(6), substituted ''$3.00 per hundredweight for the 1983 crop of rice, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate, and at not less than $2.70 per hundredweight for the 1985 crop of rice'' for ''$3.00 per hundredweight, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate'' after ''The diversion payment rate shall be established by the Secretary at not less than'' and inserted a proviso that if the Secretary estimates that the quantity of rice on hand in the United States on July 31, 1985 (not including any quantity of rice produced in the United States during calendar year 1985), will exceed (I) thirty-five million hundredweight, such rate shall be established by the Secretary at not less than $3.25 per hundredweight, and (II) forty-two million five hundred thousand hundredweight, such rate shall be established by the Secretary at not less than $3.50 per hundredweight.

Pub. L. 98–258, § 402(7), substituted ''1983 and 1985 crops'' for ''1983 crop'' after ''The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the''.

1983—Subsec. (f). Pub. L. 98–88 struck out subsec. (f) which read as follows: ''The provisions of this Act relating to price support for cotton shall apply severally to (1) American upland cotton and (2) extra long staple cotton described in subsection (a) of this section and ginned as required by subsection (e) of section 1347 of this title, except that, notwithstanding any other provision of this Act, price support shall be made available for the 1982 and each subsequent crop of extra long staple cotton through nonrecourse loans as provided in this subsection. If producers have not disapproved marketing quotas for any crop of extra long staple cotton, price support loans shall be made available to cooperators for such crop at a level which is not less than 75 per centum or more than 125 per centum in excess of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) of such crop at average location in the United States. If producers have disapproved marketing quotas for any crop of extra long staple cotton, price support loans shall be made available to cooperators for such crop at a level which shall be 50 per centum in excess of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) of such crop at average location in the United States. Nothing contained herein shall affect the authority of the Secretary to make price support available for extra long staple cotton in accordance with section 1422 of this title.'' See section 1444(h) of this title.

1982—Subsec. (i)(5)(A). Pub. L. 97–253, § 125(1)–(3), substituted ''Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the'' for ''Notwithstanding any other provision of this subsection, the'', following second sentence, inserted provision that for the 1983 crop of rice, the Secretary shall provide for a combination of (i) an acreage limitation program as described under this subparagraph and (ii) a diversion program as described under subpar. (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program, and that as a condition of eligibility for loans, purchases, and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program, and, following ninth sentence, inserted provision that notwithstanding the other provisions of this subparagraph, the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

Subsec. (i)(5)(B). Pub. L. 97–253, § 125(4), inserted provision requiring the Secretary to implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to producers making a reduction additional to that required under subpar. (A) and devoting an equivalent acreage of cropland to conservation purposes, and provisions for the computation of payments, and establishment of payment rates by the Secretary, as well as payment by the Secretary of not less than 50 per centum of any payments under this subparagraph to 1983 crop producers as soon as practicable after any such producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to Oct. 1, 1982, and repayment of advances, with interest, in the event of noncompliance by such producer with such contract.

1981—Subsec. (f). Pub. L. 97–98, § 508, substituted provisions authorizing price support for extra long staple cotton for the 1982 crop and each subsequent crop through nonrecourse loans as provided in this subsection and prescribing the level of price support loans available to cooperators if producers have not, or have, disapproved marketing quotas for any crop of extra long staple cotton as specified percentages of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, of such crop at average location in the United States for provisions authorizing price support for extra long staple cotton to cooperators for the 1980 crop and each subsequent crop based on the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton and adjusted by the specified factors, provisions determining the computation of acreage allotments of extra long staple cotton, provisions authorizing the Secretary to establish the price-support payment factor, provisions authorizing the manner and mode of payments authorized under this section, and provisions making operative subsec. (d)(3) of this section upon the disapproval by producers of the national marketing quota established pursuant to section 1347 of this title.

Subsec. (i). Pub. L. 97–98, § 602, temporarily added subsec. (i). See Effective and Termination Dates of 1981 Amendment note below.

1980—Subsec. (h)(4)(B). Pub. L. 96–365, § 201(a)(1), substituted ''Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice'' for ''Effective only with respect to the 1978, 1979, and 1980 crops of rice''.

Pub. L. 96–213, § 4(a)(1), substituted ''1978, 1979, and 1980 crops of rice'' for ''1978 and 1979 crops of rice''.

Subsec. (h)(4)(C). Pub. L. 96–365, § 201(a)(2), substituted ''Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice'' for ''Effective only with respect to the 1978, 1979, and 1980 crops of rice''.

Pub. L. 96–213, § 4(a)(2), substituted ''1978, 1979, and 1980 crops of rice'' for ''1978 and 1979 crops of rice''.

Subsec. (h)(4)(D), (E). Pub. L. 96–365, § 201(a)(3), added subpar. (D) and redesignated former subpar. (D) as (E).

1979—Subsec. (f). Pub. L. 96–176 substituted ''1980'' for ''1968'', ''85'' for ''50'', ''135'' for ''100'', and ''55'' for ''65''.

1977—Subsec. (f). Pub. L. 95–113, § 607, substituted ''Strict Low Middling one and one-sixteenth inch'' for ''Middling one-inch''.

Subsec. (h). Pub. L. 95–113, § 702, temporarily added subsec. (h). See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (g). Pub. L. 94–214 temporarily added subsec. (g). See Effective and Termination Dates of 1976 Amendment note below.

1968—Subsec. (f). Pub. L. 90–475 substituted provisions authorizing price support for extra long staple cotton for the 1968 crop and each subsequent crop based on the

loan level established for Middling one-inch upland cotton and adjusted by the specified factors, provisions determining the computation of acreage allotments of extra long staple cotton, provisions authorizing the Secretary to establish the price-support payment factor, and provisions authorizing the manner and mode of payments authorized under this section, for provisions authorizing price support for extra long staple cotton for the 1957 crop and each subsequent crop based on the parity price for the 1956 crop and adjusted by certain specified factors, with a minimum price support level of not less than 60 percent of the parity price, and provisions making operative subsec. (d)(3) of this section upon the disapproval by producers of the national marketing quota established pursuant to section 1347 of this title.

1960—Subsec. (e). Pub. L. 86–389 repealed subsec. (e) which provided that: ''Notwithstanding any of the provisions of this Act, section 2 of the Act of July 28, 1945 (59 Stat. 506) shall continue in effect.'' See section 1445 of this title.

1958—Subsec. (a). Pub. L. 85–835, § 302(a), substituted ''and wheat'' for ''wheat, and rice'' and added par. requiring rice price support levels to be not less than 75, 70, and 65 per centum of parity for 1959 and 1960, 1961, and 1962 and subsequent crop years, respectively.

Subsec. (d)(4). Act Oct. 31, 1949, § 104(b)(3), as added Pub. L. 85–835, § 201, repealed par. (4) which provided for price support level for corn to cooperators outside the commercial corn-producing area at 75 per centum of the level of price support to cooperators in the commercial corn-producing area.

Subsec. (f). Pub. L. 85–497 provided that the level of support for crops of extra long staple cotton shall not exceed the same per centum of the parity price as for the 1956 crop, required such level to be determined after consideration of the factors specified in section 1421(b) of this title and the price levels for similar qualities of cotton produced outside the United States, and established a minimum of not less than 60 per centum of the parity price as the level for extra long staple cotton.

1957—Subsec. (f). Pub. L. 85–28 set the price support for extra long staple cotton for 1957 and each subsequent crop at same per centum of parity price as for 1956 crop.

1954—Subsec. (d)(6). Act Aug. 28, 1954, § 201(a), provided for flexible price supports.

Subsec. (d)(7). Act Aug. 28, 1954, § 201(b), added par. (7).

Subsec. (f). Act Aug. 28, 1954, § 202, set the price support for long staple cotton at the minimum determined in accordance with the schedule in subsec. (b) of this section.

1952—Subsec. (d)(6). Act July 17, 1952, § 2, added par. (6).

Subsec. (f). Act July 17, 1952, § 3(1), added subsec. (f).

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 602 of Pub. L. 99–198 provided that the amendment made by that section is effective for 1985 crop of rice.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98–88 provided that the amendment made by that section is effective beginning with 1984 crop of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 508 of Pub. L. 97–98 provided that the amendment made by that section is effective beginning with 1982 crop of extra long staple cotton.

Section 602 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of rice.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–176 provided that the amendment made by that section is effective with respect to 1980 and subsequent crops of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 702 of Pub. L. 95–113 provided that the amendment made by that section is effective only for 1978 through 1981 crops of rice.

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, except as otherwise provided, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 102 of Pub. L. 94–214 provided that the amendment made by that section is effective for 1976 and 1977 crops of rice.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 104(b)(3) of act Oct. 31, 1949, as added by section 201 of Pub. L. 85–835, provided for repeal of subsec. (d)(4) of this section effective with 1959 crop, to be operative as provided in section 1444a(b) of this title. See 1958 Referendum for Selection of Alternative Corn Program and Operative Status of Certain Provisions note set out under section 1444a of this title.

Section 302(a) of Pub. L. 85–835 provided in part that the amendment by Pub. L. 85–835 [amending this section] is effective beginning with the 1959 crop.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(A) of this title.

Pub. L. 101–624, title VIII, § 808, Nov. 28, 1990, 104 Stat. 3478, provided that: ''Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1991 through 1995 crops of peanuts.''

Section 707 of Pub. L. 99–198 provided that: ''Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1986 through 1990 crops of peanuts.''

Section 707 of Pub. L. 97–98 provided that: ''Section 101 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of peanuts.''

REPORT ON TRADING OF RICE FUTURES

Section 603 of Pub. L. 97–98 required Secretary of Agriculture to submit a report to Congress evaluating the trading of rice futures on commodity exchanges by July 31, 1983.

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Term ''payments'' as used in subsec. (g)(13) of this section shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to 1977 crops of wheat, feed grains, upland cotton, and rice, see Pub. L. 95–156, set out as a note under section 1307 of this title.

1963 WHEAT CROP

Pub. L. 87–703, title III, § 306, Sept. 27, 1962, 76 Stat. 615, required that price support for 1963 crop of wheat be made available as provided in section 1441 of this title with certain exceptions.

1962 WHEAT CROP

Pub. L. 87–128, title I, § 123, Aug. 8, 1961, 75 Stat. 297, required that price support for 1962 crop of wheat be made available as provided in section 1441 of this title with certain exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1427, 1428, 1442, 1444, 1444a, 1444b, 1445, 1445a, 7301 of this title.

§ 1441–1. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 101A, as added Dec. 23, 1985, Pub. L. 99–198, title VI, § 601, 99 Stat. 1419; amended Mar. 20, 1986, Pub. L. 99–260, § 2(d), 100 Stat. 47; May 27, 1987, Pub. L. 100–45, § 5, 101 Stat. 320; Dec. 22, 1987, Pub. L. 100–203, title I, §§ 1101(e), 1102(d), 1113(d), 101 Stat. 1330–2, 1330–3, 1330–10, related to loan rates, target prices, disaster payments, acreage limitation program, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 601 of Pub. L. 99–198 provided that this section is effective only for 1986 through 1990 crops of rice.

§ 1441–1a. Marketing certificates for rice

(a) Authority of Commodity Credit Corporation to issue negotiable marketing certificates

Notwithstanding any other provision of law, whenever, during the period beginning August 1, 1986, and ending July 31, 1991, the world price for a class of rice (adjusted to United States qualities and location), as determined by the Secretary of Agriculture, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, the Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of negotiable marketing certificates, to persons who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this section. Such payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices consistent with the purposes of this section, including such payments as may be necessary to make rice in inventory on August 1, 1986, available on the same basis.

(b) Determination of value of certificates

The value of each certificate issued under subsection (a) of this section shall be based on the difference between—

(1) the loan repayment rate for the class of rice; and

(2) the prevailing world market price for the class of rice, as determined by the Secretary of Agriculture under a published formula submitted for public comment before its adoption.

(c) Commodity Credit Corporation assistance in redemption, marketing, or exchange of certificates

The Commodity Credit Corporation, under regulations prescribed by the Secretary of Agriculture, may assist any person receiving marketing certificates under this section in the redemption of certificates for cash, or marketing or exchange of such certificates for (1) rice owned by the Commodity Credit Corporation or (2) (if the Secretary and the person agree) other agricultural commodities or the products thereof owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this section. Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this section.

(d) Exchange of certificates for commodities and products

Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, such owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of such certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after such reasonable number of days and ending with the date of the presentation of such certificate to the Commodity Credit Corporation.

(e) Prevention of adverse effects

The Secretary of Agriculture shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and the products thereof for certificates under this section from adversely affecting the income of producers of such commodities or products.

(f) Transfer of certificates

Under regulations prescribed by the Secretary of Agriculture, certificates issued to rice exporters under this section may be transferred to other exporters and persons approved by the Secretary.

(Pub. L. 99–198, title VI, § 603, Dec. 23, 1985, 99 Stat. 1429.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1441–2. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(A), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 101B, as added Nov. 28, 1990, Pub. L. 101–624, title VI, § 601, 104 Stat. 3443; amended Nov. 5, 1990, Pub. L. 101–508, title I, §§ 1101(d), 1102(c), 104 Stat. 1388–1, 1388–2; Dec. 13, 1991, Pub. L. 102–237, title I, §§ 102(a), 104, 106(a), 113(1), 105 Stat. 1821, 1823, 1824, 1837; Aug. 10, 1993, Pub. L. 103–66, title I, § 1104, 107 Stat. 316; May 6, 1994, Pub. L. 103–247, § 1(a), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(2), 108 Stat. 3207, related to loans, payments, and acreage reduction programs for 1991 through 1995 crops of rice.

§ 1441a. Cost of production study and establishment of current national weighted average cost of production

The Secretary of Agriculture, in cooperation with the land grant colleges, commodity organizations, general farm organizations, and individ-

ual farmers, shall conduct a cost of production study of the wheat, feed grain, cotton, and dairy commodities under the various production practices and establish a current national weighted average cost of production. This study shall be updated annually and shall include all typical variable costs, including interest costs, a return on fixed costs, and a return for management.

(Pub. L. 91–524, title VIII, § 808, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 237; amended Pub. L. 97–98, title XI, § 1117, Dec. 22, 1981, 95 Stat. 1271.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97–98 inserted ''including interest costs,'' after ''variable costs,'', substituted '', and a return for management'' for ''equal to the existing interest rates charged by the Federal Land Bank, and return for management comparable to the normal management fees charged by other comparable industries'', and struck out provision that these studies be based upon the size unit that requires one man to farm on a full-time basis.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 1442. Price support and acreage requirements for corn and other feed grains

(a) Conditions of eligibility

Notwithstanding any other provision of law, whenever base acreages are in effect for corn, the Secretary shall require, as a condition of eligibility for price support on corn, that the producer (1) devote an acreage of cropland (tilled in normal rotation), at the option of the producer, to either the acreage reserve program for corn or the conservation reserve program, equal to 15 per centum of such producer's farm base acreage for corn, and (2) not exceed such farm base acreage for corn: *Provided*, That price support may be made available to any producer who does not meet the foregoing requirements at such level, not in excess of the level of price support to producers who meet such requirements, as the Secretary determines will facilitate the effective operation of the price support program. Corn acreage allotments shall not be effective for the 1956 crop.

(b) Referendum of producers of corn

Not later than December 15, 1956, the Secretary shall conduct a referendum of producers of corn in 1956 in the commercial corn-producing area to determine whether such producers favor a price-support program as provided in subsection (c) of this section for the 1957 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and price support as provided in section 1441 of this title.

(c) Restriction on acreage allotment of corn; price support level

Notwithstanding any other provision of law, if two-thirds or more of the producers voting in the referendum conducted pursuant to subsection (b) of this section favor a price-support program as provided in this subsection, no acreage allotment of corn shall be established for the commercial corn-producing area for any county, or for any farm, with respect to the 1957 and subsequent crops, and price support made available for such crops by Commodity Credit Corporation shall be at such level as the Secretary determines will assist producers in marketing corn in the normal channels of trade but not encourage the uneconomic production of corn.

(d) Price support level for 1956 and 1957 crops of grain sorghums, barley, rye, oats, and corn

Notwithstanding any other provision of law, (1) the level of price support for the 1956 crop of grain sorghums, barley, rye, and oats, respectively, shall be 76 per centum of the parity price for the commodity as of May 1, 1956, (2) the level of price support for corn produced outside the commercial corn-producing area, for any crop for which base acreages are in effect (except as provided in (3) below), shall be 82½ per centum of the level of price support for corn in the commercial corn-producing area to producers complying with acreage limitations, and (3) if price support is made available for the 1957 crop of corn in the commercial corn-producing area to producers not complying with acreage limitations, price support shall be made available for the 1957 crop of grain sorghums, barley, rye, oats, and corn produced outside the commercial corn-producing area, respectively, at a level, not less than 70 per centum of the parity price as of the beginning of the marketing year, determined by the Secretary to be fair and reasonable in relation to the level at which price support is made available for corn in the commercial corn-producing area to producers not complying with acreage limitations, taking into consideration the normal price relationships between such commodity and corn in the commercial area, the feed value of such commodity in relation to corn, the supply of such commodity in relation to the demand therefor, and the ability to dispose of stocks of such commodity acquired through price support programs.

(May 28, 1956, ch. 327, title III, § 308, 70 Stat. 206.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (b), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1956, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

REFERENDUM OF PRODUCERS OF CORN

The referendum provided for in subsec. (b) of this section was held on Dec. 11, 1956, and the required two-

thirds vote was not obtained in favor of the price support program provided for in subsec. (c) of this section. See 22 F.R. 480.

§ 1443. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 102, as added Aug. 28, 1958, Pub. L. 85–835, title I, § 101, 72 Stat. 988, related to acreage allotment and price support levels for the 1959 and 1960 crops of upland cotton.

§ 1444. Cotton price support levels

(a) Basic support levels for 1961 and subsequent years

Notwithstanding the provisions of section 1441 of this title, price support to cooperators for each crop of upland cotton, beginning with the 1961 crop, for which producers have not disapproved marketing quotas shall be at such level not more than 90 per centum of the parity price therefor nor less than the minimum level prescribed below as the Secretary determines appropriate after consideration of the factors specified in section 1421(b) of this title. For the 1961 crop the minimum level shall be 70 per centum of the parity price therefor, and for each subsequent crop the minimum level shall be 65 per centum of the parity price therefor: *Provided*, That the price support for the 1965 crop shall be a national average support price which reflects 30 cents per pound for Middling one-inch cotton. Price support in the case of noncooperators and in case marketing quotas are disapproved shall be as provided in section 1441(d)(3) and (5) of this title.

(b) Additional support levels for 1964 and 1965

If producers have not disapproved marketing quotas, the Secretary shall provide additional price support on the 1964 and 1965 crops of upland cotton to cooperators on whose farms the acreage planted to upland cotton for harvest does not exceed the farm domestic allotment established under section 1350 of this title. Such additional support shall be at a level up to 15 per centum in excess of the basic level of support established under subsection (a) of this section and shall be provided on the normal yield of the acreage planted for harvest within the farm domestic allotment. For purposes of this subsection, an acreage on the farm which the Secretary finds was not planted to cotton in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of cotton planted on the farm for harvest, provided such acreage is not subsequently devoted to any price supported crop for 1965.

(c) Alternative operations for carrying out additional price support; payment-in-kind certificates: value, marketing assistance, redemption, and deductions after thirty day period

In order to keep upland cotton to the maximum extent practicable in the normal channels of trade, any additional price support under subsection (b) of this section may be carried out through the simultaneous purchase of cotton at the support price therefor under subsection (b) of this section and the sale of such cotton at the support price therefor under subsection (a) of this section or similar operations, including loans under which the cotton would be redeemable by payment of the amount for which the cotton would be redeemable if the loan thereon had been made at the support price for such cotton under subsection (a) of this section, or payments-in-kind through the issuance of certificates which the Commodity Credit Corporation shall redeem for cotton under regulations issued by the Secretary. If such additional support is provided through the issuance of payment-in-kind certificates, such certificates shall have a value per pound of cotton equal to the difference between the level of support established under subsection (a) of this section and the level of support established under subsection (b) of this section. The corporation may, under regulations prescribed by the Secretary, assist the producers and persons receiving payment-in-kind certificates under this section and section 1348 of this title, in the marketing of such certificates at such time and in such manner as the Secretary determines will best effectuate the purposes of the program authorized by this section and such section 1348. In the case of any certificate not presented for redemption within thirty days of the date of its issuance, reasonable costs of storage and other carrying charges as determined by the Secretary for the period beginning thirty days after its issuance and ending with the date of its presentation for redemption shall be deducted from the value of the certificate.

(d) Price support and diversion payments for 1966 through 1970 crops

(1) Notwithstanding any other provision of this Act, if producers have not disapproved marketing quotas, price support and diversion payments shall be made available for the 1966 through 1970 crops of upland cotton as provided in this subsection.

(2) Price support for each such crop of upland cotton shall be made available to cooperators through loans at such level, not exceeding a level which will reflect for Middling one-inch upland cotton at average location in the United States 90 per centum of the estimated average world market price for Middling one-inch upland cotton for the marketing year for such crop, as the Secretary determines will provide orderly marketing of cotton during the harvest season and will retain an adequate share of the world market for cotton produced in the United States taking into consideration the factors specified in section 1421(b) of this title: *Provided*, That the national average loan rate for the 1966 crop shall reflect 21 cents per pound for Middling one-inch upland cotton.

(3) The Secretary also shall provide additional price support for each such crop through payments in cash or in kind to cooperators at a rate not less than 9 cents per pound: *Provided*, That the rate shall be such that the amount obtained by—

(i) multiplying the rate by the farm domestic acreage allotment percentage, and

(ii) dividing the product thus obtained by the cooperator percentage established under section 1428(b) of this title, and

(iii) adding the result thus obtained to the national average loan rate

shall not be less than 65 per centum or more than 90 per centum of the parity price for cotton

as of the month in which the payment rate provided for by this paragraph is announced. Such payments shall be made on the quantity of cotton determined by multiplying the projected farm yield by the acreage planted to cotton within the farm domestic acreage allotment: *Provided*, That any such farm planting not less than 90 per centum of such domestic acreage allotment shall be deemed to have planted the entire amount of such allotment. An acreage on a farm in any such year which the Secretary finds was not planted to cotton because of drought, flood, or other natural disaster shall be deemed to be planted to cotton for purposes of payments under this subsection if such acreage is not subsequently devoted to any other crop for which there are marketing quotas or voluntary adjustment programs in effect.

(4) The Secretary shall make diversion payments in cash or in kind in addition to the price support payments authorized in paragraph (3) to cooperators who reduce their cotton acreage by diverting a portion of their cotton acreage allotment from the production of cotton to approved conservation practices to the extent prescribed by the Secretary: *Provided*, That no reduction below the domestic acreage allotments established under section 1350 of this title shall be prescribed: *Provided further*, That payment under this paragraph shall be made available for diverting to conserving uses that part of the acreage allotment which must be diverted from cotton in order that the producer may qualify as a cooperator. The rate of payment for acreage required to be diverted in order to qualify as a cooperator shall not be less than 25 per centum of the parity price for upland cotton as of the month in which such rate is announced. The rate of payment for additional acreage diverted shall be such rate as the Secretary determines to be fair and reasonable, but shall not exceed 40 per centum of such parity price. Payment at each applicable rate shall be made on the quantity of cotton determined by multiplying the acreage diverted from the production of cotton at such rate by the projected farm yield. In addition to the foregoing payment, if any, payment at the rate applicable for acreage required to be diverted to qualify as a cooperator shall be made to producers on small farms as defined in section 1428(b) of this title who do not exceed their farm acreage allotments on a quantity of cotton determined by multiplying an acreage equal to 35 per centum of such farm acreage allotment by the projected farm yield.

(5) The Secretary may make not to exceed 50 per centum of the payments under this subsection to producers in advance of determination of performance and the balance of such payments shall be made at such time as the Secretary may prescribe.

(6) Where the farm operator elects to participate in the diversion program authorized in this subsection and no acreage is planted to cotton on the farm, diversion payments shall be made at the rate established under paragraph (4) for acreage required to be diverted to qualify as a cooperator on the quantity of cotton determined by multiplying that part of the farm acreage allotment required to be diverted to qualify as a cooperator by the projected farm yield, and the remainder of such allotment may be released under the provisions of section 1344(m)(2) of this title. The acreage on which payment is made under this paragraph shall be regarded as planted to cotton for purposes of establishing future State, county, and farm acreage allotments, and farm bases.

(7) Payments in kind under this subsection shall be made through the issuance of certificates which the Commodity Credit Corporation shall redeem for cotton under regulations issued by the Secretary at a value per pound equal to not less than the current loan rate therefor. The Corporation may, under regulations prescribed by the Secretary, assist the producers in the marketing of such certificates at such times and in such manner as the Secretary determines will best effectuate the purposes of the program authorized by this subsection.

(8) Payments under this subsection shall be conditioned on the farm having an acreage of approved conservation uses equal to the sum of (i) the reduction in cotton acreage required to qualify for such payments (hereinafter called ''diverted acreage''), and (ii) the average acreage of cropland on the farm devoted to designated soil-conserving crops or practices, including summer fallow and idle land, during a base period prescribed by the Secretary: *Provided*, That the Secretary may permit all or any part of such diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production is necessary to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income, subject to the condition that payment under paragraph (4) or (6) with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable, taking into consideration the use of such acreage for the production of such crops, but in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

(9) The acreage regarded as planted to cotton on any farm which qualifies for payment under this subsection except under paragraph (6) shall, for purposes of establishing future State, county, and farm acreage allotments and farm bases, be the farm acreage allotment established under section 1344 of this title, excluding adjustments under subsection (m)(2) thereof.

(10) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing diversion payments on a fair and equitable basis under this subsection. The Secretary shall provide for the sharing of price support payments among producers on the farm on the basis of their respective shares in the cotton crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable.

(11) In any case in which the failure of a producer to comply fully with the terms and condi-

tions of the programs formulated under this Act preclude the making of payments under this section, the Secretary may, nevertheless, make such payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(12) Notwithstanding any other provision of this Act, if, as a result of limitations hereafter enacted with respect to price support under this subsection, the Secretary is unable to make available to all cooperators the full amount of price support to which they would otherwise be entitled under paragraphs (2) and (3) of this subsection for any crop of upland cotton, (A) price support to cooperators shall be made available for such crop (if marketing quotas have not been disapproved) through loans or purchases at such level not less than 65 per centum nor more than 90 per centum of the parity price therefor as the Secretary determines appropriate; (B) in order to keep upland cotton to the maximum extent practicable in the normal channels of trade, such price support may be carried out through the simultaneous purchase of cotton at the support price therefor and resale at a lower price or through loans under which the cotton would be redeemable by payment of a price therefor lower than the amount of the loan thereon; and (C) such resale or redemption price shall be such as the Secretary determines will provide orderly marketing of cotton during the harvest season and will retain an adequate share of the world market for cotton produced in the United States.

(13) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall also apply to payments under this subsection.

(14) The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this subsection and to pay administrative expenses necessary in carrying out this subsection.

(e) Price support, diversion, and cropland set-aside program for crops beginning with 1971 crop

(1) The Secretary shall upon presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days make available for the 1971 through 1977 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect the Middling one-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States 90 per centum of the average price of American cotton in world markets for such cotton for the three-year period ending July 31 in the year in which the loan level is announced, except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price. The average world price for such cotton for such preceding three-year period shall be determined by the Secretary annually pursuant to a published regulation which shall specify the procedures and the factors to be used by the Secretary in making the world price determination. The loan level for any crop of upland cotton shall be determined and announced not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective. Notwithstanding the foregoing, if the carryover of upland cotton as of the beginning of the marketing year for any of the 1972 or 1973 crops exceeds 7.2 million bales, producers on any farm harvesting cotton of such crop from an acreage in excess of the base acreage allotment for such farm shall be entitled to loans and purchases only on an amount of the cotton of such crop produced on such farm determined by multiplying the yield used in computing payments for such farm by the base acreage allotment for such farm.

(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

(1) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under paragraph (1) for such crop

is less than the established price of 38 cents per pound in the case of the 1974 and 1975 crops, 38 cents per pound adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers on a farm are prevented from planting any portion of the allotment to cotton because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary determines that, because of such a disaster or condition, the total quantity of cotton which the producers are able to harvest on any farm is less than 66⅔ percent of the farm base acreage allotment times the average yield established for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 1350(f) of this title, (ii) resides on such farm, and

(iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3).

(3) Such payments shall be made available for a farm on the quantity of upland cotton determined by multiplying the acreage planted within the farm base acreage allotment for the farm for the crop by the average yield established for the farm: *Provided*, That payments shall be made on any farm planting not less than 90 per centum of the farm base acreage allotment on the basis of the entire amount of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. The average yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years, except that the 1970 farm projected yield shall be substituted in lieu of the actual yields for the years 1968 and 1969: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster: *Provided further*, That the average yield established for the farm for any year shall not be less than the yield used in making payments for the preceding year if the total cotton production on the farm in such preceding year is not less than the yield used in making payments for the farm for such preceding year times the farm base acreage allotment for such preceding year (for the 1970 crop, the farm domestic allotment).

(4)(A) The Secretary shall provide for a set aside of cropland if he determines that the total supply of agricultural commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph (4), then as a condition of eligibility for loans and payments on upland cotton the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the farm base acreage allotment for the farm as may be specified by the Secretary (not to exceed 28 per centum of the farm base acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment. The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

(B) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection (e)(2) of this section, to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (e)(4)(A) of this section. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration to the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(5) The upland cotton program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(6) If the operator of the farm desires to participate in the program formulated under this section, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on upland cotton and payments under this section shall be made available to the producers on such farm only if producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (e)(6) if he determines such action necessary because of an emergency created by drought or other disaster or in order to alleviate a shortage in the supply of agricultural commodities.

(7) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing on a fair and equitable basis, in payments under this section.

(8) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(9) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subchapter.

(10) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(11) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall apply to payments under this subsection.

(f), (g) Omitted

(h) Program for extra long staple cotton beginning with 1984 crop

(1) For purposes of this subsection, extra long staple cotton means cotton which is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which American upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary is suitable for the production of such varieties or types and which is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(2) The Secretary shall, upon presentation of warehouse receipts reflecting accrued storage charges of not more than sixty days, make available to producers nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at a level which is not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period..[1] If authorized by the Secretary, nonrecourse loans provided for in this subsection may, upon request of the producer during the tenth month of the loan period for the cotton, be made available for an additional term of eight months. The loan level for any crop of extra long staple cotton shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which such loan is to be effective and such level shall not thereafter be changed.

(3)(A) In addition, payments shall be made for each crop of extra long staple cotton to producers on each farm at a rate equal to the amount by which the higher of—

(i) the average market price received by farmers for extra long staple cotton during the first eight months of the marketing year for such crop, as determined by the Secretary, or

(ii) the loan level determined under paragraph (2) of this subsection for such crop,

is less than the established price per pound times, in each case, the farm program acreage for extra long staple cotton (determined in accordance with paragraph (5)(A), but in no event on a greater acreage than the acreage actually planted to extra long staple cotton for harvest), multiplied by the farm program payment yield for extra long staple cotton (determined in accordance with paragraph (4)).

(B) The established price for each crop of extra long staple cotton shall be 120 per centum of the loan level determined for such crop under paragraph (2) of this subsection.

(C) If the Secretary establishes an acreage limitation program for a crop of extra long staple cotton in accordance with paragraph (5)(A) and determines that deficiency payments will likely be made for such crop of extra long staple cotton under subparagraph (A) of this paragraph, the Secretary may make available advance deficiency payments for such crop to producers who agree to participate in the acreage limitation program. Such advance payments shall be made available to producers as soon as practicable after the producer files a notice of intention to participate in such acreage limitation program and in such amount as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount shall not exceed an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 50 per centum of the projected payment rate, as determined by the Secretary. In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under subparagraph (A) of this paragraph, is less than the amount paid to the producer as an advance deficiency payment under this paragraph, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer. If the Secretary determines that no deficiency payments are due producers on a crop, the producer who received advanced payments on such crop shall refund such payments. If a producer fails to comply with the requirements under the acreage limitation program after obtaining an advance deficiency payment under this paragraph, the producer shall immediately repay the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe.

(4) The farm program payment yield for each crop of extra long staple cotton shall be determined on the basis of the actual yields per harvested acre on the farm for the preceding three years, except that the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producers. In case farm yield data for one or more years are unavailable or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area for which data are available.

[1] So in original.

Notwithstanding the foregoing provisions of this paragraph in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this paragraph. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(5)(A)(i) Notwithstanding any other provision of this subsection, the Secretary may establish a limitation on the acreage planted to extra long staple cotton if the Secretary determines that the total supply of extra long staple cotton, in the absence of such limitation, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction (including a zero percentage reduction) to the acreage base for each extra long staple cotton-producing farm. Producers who knowingly produce extra long staple cotton in excess of the permitted acreage for the farm shall be ineligible for extra long staple cotton loans and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as a result of a limitation under this subparagraph shall be the average acreage planted on the farm to extra long staple cotton for harvest in the three crop years immediately preceding the year prior to the year for which the determination is made. For the purpose of the preceding sentence, acreage planted to extra long staple cotton for harvest shall include any acreage which the producers were prevented from planting to extra long staple cotton or other nonconserving crops in lieu of extra long staple cotton because of drought, flood, or other natural disaster or other condition beyond the control of the producers. The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. There is hereby established for the 1984, 1985, and 1986 crops an acreage base reserve equal to 5 per centum of the total of the farm acreage bases established for the crop under the foregoing provisions of this subparagraph. Such reserve shall be in addition to the total of the farm acreage bases and shall be used by the county committees, in accordance with regulations of the Secretary, for making adjustments of farm acreage bases to correct inequities and prevent hardship, and for establishing bases for farms on which no extra long staple cotton was planted during the preceding four years. A number of acres on the farm determined by dividing (i) the product obtained by multiplying the number of acres required to be withdrawn from the production of extra long staple cotton times the number of acres actually planted to such commodity, by (ii) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary, shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion. The number of acres so determined is hereafter in this subsection referred to as ''reduced acreage''. The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the reduced acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely. The individual farm program acreage shall be the actual acreage planted on the farm to extra long staple cotton for harvest within the permitted extra long staple cotton acreage for the farm as established under this paragraph.

(ii) Notwithstanding any other provision of this Act, the Secretary shall ensure, under such terms and conditions as may be prescribed by the Secretary, that the total of the crop acreage bases established on a farm which is enrolled in a production adjustment program for any commodity shall not be increased as a result of the application of the provisions set forth in paragraph (13)(C), as extended for the 1989 and 1990 crop.

(B) The Secretary may make land diversion payments to producers of extra long staple cotton, whether or not an acreage limitation program for extra long staple cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of extra long staple cotton to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(C) The reduced acreage and the diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with

wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purpose of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(6) An operator of a farm desiring to participate in the program conducted under paragraph (5) shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe. The Secretary may, by mutual agreement with the producers on the farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

(7) The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.

(8) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(9) If the failure of a producer to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans and payments, the Secretary may, nevertheless, make such loans and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure. The Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

(10) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

(11) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

(12) The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments made under this subsection.

(13)(A) Compliance on a farm with the terms and conditions of any other commodity program or compliance with crop acreage base requirements for any other commodity may not be required as a condition of eligibility for loans or payments under this section.

(B) The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the extra long staple cotton program with respect to any other farm operated by the producers.

(14) In order to encourage and assist producers in the orderly ginning and marketing of their extra long staple cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(15) References made in sections 1422, 1423, 1426,[2] 1427, and 1431 of this title to the terms ''support price'', ''level of support'', and ''level of price support'' shall be considered to apply as well to the level of loans for extra long staple cotton under this subsection; and references to the terms ''price support'', ''price support operations'', and ''price support program'' in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan operations for extra long staple cotton under this subsection.

(16) Notwithstanding any other provision of law, this subsection shall not be applicable to the 1996 and subsequent crops of extra long staple cotton.

(Oct. 31, 1949, ch. 792, title I, § 103, as added Aug. 28, 1958, Pub. L. 85–835, title I, § 102, 72 Stat. 989; amended Apr. 11, 1964, Pub. L. 88–297, title I, § 103(b), 78 Stat. 174; Aug. 6, 1965, Pub. L. 89–112, § 2, 79 Stat. 447; Nov. 3, 1965, Pub. L. 89–321, title IV, § 402(a), 79 Stat. 1194; June 17, 1966, Pub. L. 89–451, § 1, 80 Stat. 202; Oct. 11, 1968, Pub. L. 90–559, § 1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title VI, § 602, 84 Stat. 1374; Aug. 10, 1973, Pub. L. 93–86, § 1(20), 87 Stat. 233; Oct. 18, 1973, Pub. L. 93–125, § 1(b), 87 Stat. 450; Sept. 29, 1977, Pub. L. 95–113, title VI, § 602, 91 Stat. 934; May 15, 1978, Pub. L. 95–279, title I, § 102, 92 Stat. 240; Sept. 30, 1978, Pub. L. 95–402, 92 Stat. 862; Mar. 18, 1980, Pub. L. 96–213, § 4(b), 94 Stat. 119; Sept. 26, 1980, Pub. L. 96–365, title II, § 201(b), 94 Stat. 1320; Dec. 22, 1981, Pub. L. 97–98, title V, § 502, 95 Stat. 1234; Jan. 12, 1983, Pub. L. 97–446, title I, § 155, 96 Stat. 2345; Aug. 26, 1983, Pub. L. 98–88, § 4, 97 Stat. 494; Apr. 10, 1984, Pub. L. 98–258, title III, §§ 301, 302, 98 Stat. 133; Oct. 1, 1985, Pub. L. 99–114, § 3, 99 Stat. 488; Dec. 23, 1985, Pub. L. 99–198, title V, § 507, 99 Stat. 1419; Oct. 18, 1986, Pub. L. 99–500, § 101(a) [title VI, § 644], 100 Stat. 1783, 1783–36, and Oct. 30, 1986, Pub. L. 99–591, § 101(a) [title VI, § 644], 100 Stat. 3341, 3341–36; Nov. 10, 1986, Pub. L. 99–641, title II, § 201, 100 Stat. 3562; Dec. 22, 1987, Pub. L. 100–203, title I, § 1101(d), 101 Stat. 1330–2; June 14, 1988, Pub. L. 100–331, 102 Stat. 602; Aug. 23, 1988, Pub. L. 100–418, title I, § 1214(w), 102 Stat. 1163; Nov. 28, 1990, Pub. L. 101–624, title V, § 506, 104 Stat. 3440.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (d)(1), (11), (12) and (h)(5)(A)(ii), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (h)(14), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

Section 1426 of this title, referred to in subsec. (h)(15), was repealed by Pub. L. 104–127, title I, § 171(b)(2)(I), Apr. 4, 1996, 110 Stat. 938.

[2] See References in Text note below.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1990—Subsec. (h)(3)(A). Pub. L. 101–624, § 506(b)(1), substituted ''paragraph (5)(A)'' for ''paragraph (6) or paragraph (8)(A) of this subsection'' and ''paragraph (4)'' for ''paragraph (7) of this subsection''.

Subsec. (h)(3)(C). Pub. L. 101–624, § 506(b)(2), substituted ''paragraph (5)(A)'' for ''paragraph (8)(A) of this subsection''.

Subsec. (h)(4). Pub. L. 101–624, § 506(a)(1), (2), redesignated par. (7) as (4) and struck out former par. (4) which related to establishment of a national program acreage for extra long staple cotton by Secretary.

Subsec. (h)(5). Pub. L. 101–624, § 506(a)(1)–(3), redesignated par. (8) as (5), inserted ''(including a zero percentage reduction)'' after ''reduction'' in subpar. (A)(i), and struck out former par. (5) which required Secretary to determine a program allocation factor, not to exceed 100 per centum for each crop of extra long staple cotton.

Pub. L. 101–624, § 506(b)(3), struck out before last sentence in subpar. (A)(i) the following: ''If an acreage limitation program is announced under this paragraph for a crop of extra long staple cotton, paragraphs (4), (5), and (6) of this subsection shall not be applicable to such crop, including any prior announcement which may have been made under such paragraphs with respect to such crop.''

Pub. L. 101–624, § 506(b)(4), substituted ''paragraph (13)(C)'' for ''paragraph (16)(C)'' in subpar. (A)(ii).

Subsec. (h)(6). Pub. L. 101–624, § 506(b)(5), substituted ''paragraph (5)'' for ''paragraph (8) of this subsection''.

Pub. L. 101–624, § 506(a)(1), (2), redesignated par. (9) as (6) and struck out former par. (6) which provided a formula for determining individual farm program acreage for each crop of extra long staple cotton by multiplying allocation factor by acreage of extra long staple cotton planted for harvest on each farm for which individual farm program acreages are required to be determined.

Subsec. (h)(7) to (12). Pub. L. 101–624, § 506(a)(2), redesignated pars. (10) to (15) as (7) to (12), respectively. Former pars. (7) to (9) redesignated (4) to (6), respectively.

Subsec. (h)(13). Pub. L. 101–624, § 506(a)(2), (4), redesignated par. (16) as (13), struck out par. (13) as so redesignated, and added new par. (13). Former par. (13) redesignated (10). Prior to being struck out, par. (13) read as follows:

''(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

''(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

''(C) Notwithstanding any other provision of law, in the case of each of the 1987 through 1990 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.''

Subsec. (h)(14), (15). Pub. L. 101–624, § 506(a)(2), redesignated pars. (17) and (18) as (14) and (15), respectively. Former pars. (14) and (15) redesignated (11) and (12), respectively.

Subsec. (h)(16). Pub. L. 101–624, § 506(a)(2), (5), redesignated par. (19) as (16) and substituted ''1996'' for ''1991''. Former par. (16) redesignated (13).

Subsec. (h)(17) to (19). Pub. L. 101–624, § 506(a)(2), redesignated pars. (17) to (19) as (14) to (16), respectively.

1988—Subsec. (f)(3). Pub. L. 100–418 substituted ''subheadings 9904.30.10 through 9904.30.30 of chapter 99 of the Harmonized Tariff Schedule of the United States'' for ''items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States''.

Subsec. (h)(8)(A). Pub. L. 100–331, § 2, designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (h)(16)(C). Pub. L. 100–331, § 1, substituted ''through 1990'' for ''and 1988''.

1987—Subsec. (h)(3)(B). Pub. L. 100–203 temporarily (see Effective and Termination Dates of 1987 Amendment note below) substituted ''Except as provided in clause (ii), the'' for ''The'' and added cl. (ii) which read as follows: ''In the case of each of the 1988 and 1989 crops of extra long staple cotton, the established price for each such crop shall be 118.3 percent of the loan level determined for such crop under paragraph (2).''

1986—Subsec. (h)(16). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–641, in generally amending par. (16) identically, designated existing provisions as subpar. (A), inserted ''except as provided in subparagraph (B),'' and added subpars. (B) and (C).

1985—Subsec. (h)(2). Pub. L. 99–198, § 507(1), in first sentence substituted ''85 percent or the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.'' for ''50 per centum in excess of the loan level established for each crop of Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States'', and, in last sentence substituted ''December 1'' for ''November 1'' and struck out '', or within 10 days after the loan level for the related crop of upland cotton is announced, whichever is later,''.

Pub. L. 99–114, § 3(1), inserted '', or within 10 days after the loan level for the related crop of upland cotton is announced, whichever is later,''.

Subsec. (h)(4). Pub. L. 99–114, § 3(2), inserted ''and announce'' after ''The Secretary shall establish'' and struck out sentence which had provided that national program acreage for extra long staple cotton had to be announced by the Secretary not later than November 1 of the calendar year preceding the year for which such acreage was established.

Subsec. (h)(19). Pub. L. 99–198, § 507(2), added par. (19).

1984—Subsec. (g)(3)(B). Pub. L. 98–258, § 301, substituted ''and $0.81 per pound for the 1984 and 1985 crops'' for ''$0.81 per pound for the 1984 crop, and $0.86 per pound for the 1985 crop''.

Subsec. (g)(9)(A). Pub. L. 98–258, § 302(1), inserted ''except as provided in the second and third sentences of this subparagraph,'' after ''Notwithstanding any other provision of this subsection,''.

Pub. L. 98–258, § 302(2), inserted sentences providing that for the 1985 crop of upland cotton, if the Secretary estimates that the quantity of upland cotton on hand in the United States on July 31, 1985 (not including any quantity of upland cotton produced in the United States during calendar year 1985), will exceed three million seven hundred thousand bales, the Secretary (i) shall provide for a land division [diversion] program as described under subparagraph (B) under which the acreage planted to upland cotton for harvest on the farm would be limited to the acreage base for the farm reduced by not less than 5 per centum and (ii) may provide for an acreage limitation program as described under this subparagraph under which the acreage planted to upland cotton for harvest on the farm would be limited to the acreage base for the farm reduced by not more than 20 per centum in addition to the reduction required under clause (i), that if the Secretary implements a combined acreage limitation program and land division [diversion] program, any reduction required by the Secretary in excess of 25 per centum of the acreage base for the farm shall be made under the land diversion program, and that, as a condition of eli-

gibility for loans, purchases, and payments on the 1985 crop of upland cotton, if the Secretary implements a land diversion program or a combined acreage limitation and land diversion program, the producers on a farm must comply with the terms and conditions of such program.

Subsec. (g)(9)(B). Pub. L. 98–258, § 302(3), inserted sentences providing that if the Secretary implements a land diversion program for the 1985 crop of upland cotton under the provisions of subparagraph (A), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of upland cotton whose acreage planted to upland cotton for harvest on the farm is reduced so that it does not exceed the upland cotton acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5 per centum, in addition to the reduction required under the acreage limitation program under subparagraph (A), if any, and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the upland cotton acreage base under this subparagraph, that such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the acreage diverted under this subparagraph, that the diversion payment rate shall be established by the Secretary at not less than $0.275 per pound: *Provided*, That if the Secretary estimates that the quantity of upland cotton on hand in the United States on July 31, 1985 (not including any quantity of upland cotton produced in the United States during calendar year 1985), will exceed (I) four million one hundred thousand bales, such rate shall be established by the Secretary at not less than $0.30 per pound, and (II) four million seven hundred thousand bales such rate shall be established by the Secretary at not less than $0.35 per pound, that the Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, and that if a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.

1983—Subsec. (h). Pub. L. 98–88 added subsec. (h).

Subsec. (f)(3). Pub. L. 97–446 temporarily substituted provision relating to the special quota status of Tariff Schedule items 955.01 and 955.03 before a special quota established under this subsection is filled and the cotton in question is duty free, for provision that, notwithstanding any other provision of law, the foregoing provisions of this subsection with respect to extension of the loan period and to proclamation of the special quota was to become effective Oct. 1, 1977, even though the cotton might have been of a crop prior to the 1978 crop. See Effective and Termination Dates of 1983 Amendment note below.

1981—Subsec. (g). Pub. L. 97–98 temporarily added subsec. (g). See Effective and Termination Dates of 1981 Amendment note below.

1980—Subsec. (f)(5)(A). Pub. L. 96–365, § 201(b)(1), substituted ''Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton'' for ''Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton''.

Pub. L. 96–213, § 4(b)(1), substituted ''1978, 1979, and 1980 crops of upland cotton'' for ''1978 and 1979 crops of upland cotton''.

Subsec. (f)(5)(B). Pub. L. 96–365, § 201(b)(2), substituted ''Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton'' for ''Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton''.

Pub. L. 96–213, § 4(b)(2), substituted ''1978, 1979, and 1980 crops of upland cotton'' for ''1978 and 1979 crops of upland cotton''.

Subsec. (f)(5)(C). Pub. L. 96–365, § 201(b)(3), added subpar. (C).

1978—Subsec. (f)(1). Pub. L. 95–402 purported to strike out the fourth sentence of subsec. (f)(1). The enacting clause, however, stated that Pub. L. 95–402 was enacted to amend subsec. (f)(1) ''. . . to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities''. Accordingly, the third sentence of subsec. (f)(1) was struck out as the probable intent of Congress because it related to interest rates while the fourth sentence related to extension of the loan period and establishment of a special limited global import quota.

Pub. L. 95–279 temporarily substituted ''during three years of the five-year period ending July 31'' for ''during the four-year period ending July 31'' and inserted ''excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period'' in cl. (i), substituted ''for the fifteen-week period beginning July 1'' for ''for the first two full weeks of October'' in cl. (ii), and inserted proviso relating to the minimum loan level and the power of the Secretary to raise the loan level as he may deem appropriate when the average Northern European price is less than the average United States spot market price. See Effective and Termination Dates of 1978 Amendment note below.

1977—Subsec. (f). Pub. L. 95–113 temporarily added subsec. (f). See Effective and Termination Dates of 1977 Amendment note below.

1973—Subsec. (e)(1). Pub. L. 93–86, § 1(20)(A), (B), substituted ''1971 through 1977 crops of upland cotton'' for ''1971, 1972, and 1973 crops of upland cotton'', ''three-year period'' for ''two-year period'' in two places, ''except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price'' for ''except that to prevent the establishment of such a loan level as would adversely affect the competitive position of United States upland cotton, following one or more years of excessively high prices the Secretary shall make such adjustments as are necessary to keep United States upland cotton competitive and to retain an adequate share of the world market for such cotton'', ''average price of American cotton in world markets'' for ''acreage world price'', and ''any of the 1972 through 1977 crops'' for ''the 1972 or 1973 crop''.

Subsec. (e)(2). Pub. L. 93–86, § 1(20)(C), substituted provisions setting out the formula for determining payments for each crop of cotton to the producers on each farm using, as elements of such formula, the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, the loan level determined under paragraph (1) for such crop, an established price of 38 cents per pound in the case of the 1974 and 1975 crops, adjusted prices in the case of the 1976 and 1977 crops, adjustment of increases to reflect changes in the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made over the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made, and covering prevention of planting due to natural disasters and conditions for provisions authorizing payments by the Secretary to cooperators on the 1971, 1972, and 1973 crops of upland cotton, and struck out provisions directing preliminary payments to producers as soon as practicable after July 1 of the year in which the crop is harvested at a rate equal to 15 cents per pound.

Pub. L. 93–125 substituted ''prevented from planting any portion'' for ''prevented from planting, any portion''.

Subsec. (e)(4)(A). Pub. L. 93–86, § 1(20)(D)–(F), inserted '', if required by the Secretary,'' before ''(ii) the acre-

age of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary'', substituted ''The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment'' for ''If the Secretary determines prior to the planting season for such crop that the carryover of upland cotton as of the beginning of the marketing year for the 1972 or 1973 crop will exceed 7.2 million bales, the Secretary is authorized for such crop to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to such percentage of the farm base acreage allotment as he determines necessary to reduce the total supply to a reasonable level'', deleted provision prohibiting grazing during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16, and inserted provisions authorizing the raising of hay on set-aside acreage and the production of triticale, oats, and rye.

Subsec. (e)(5). Pub. L. 93–86, § 1(20)(G), authorized Secretary in case of programs for 1974 through 1977 crops to pay an appropriate share of cost of practices designed to protect set-aside acreage from erosion, insects, weeds, and rodents and to provide wildlife food plots or wildlife habitat.

1970—Subsec. (e). Pub. L. 91–524 added subsec. (e).

1968—Subsec. (d)(1). Pub. L. 90–559 provided for a one year extension, substituting ''1966 through 1970'' for ''1966, 1967, 1968, and 1969''.

1966—Subsec. (d)(3). Pub. L. 89–451 substituted ''crop for which there are marketing quotas or voluntary adjustment programs in effect'' for ''income producing crop in such year'' in last sentence.

1965—Subsec. (b). Pub. L. 89–112 provided that the Secretary shall deem an acreage on a farm which he finds was not planted to cotton in 1965 because of flood, drought, or other natural disaster to be an actual acreage of cotton planted on the farm for harvest when that acreage was not subsequently devoted to any price support crop in 1965.

Subsec. (d). Pub. L. 89–321 added subsec. (d).

1964—Subsec. (a). Pub. L. 88–297, § 103(b)(1), (2), designated existing provisions as subsec. (a) and provided that the price support for the 1964 cotton crop shall be a national average support price which reflects 30 cents per pound for Middling one-inch cotton.

Subsecs. (b), (c). Pub. L. 88–297, § 103(b)(3), added subsecs. (b) and (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as a note under section 3001 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1101(d) of Pub. L. 100–203 provided that the amendment made by that section is effective only for 1988 and 1989 crops of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

Section 4 of Pub. L. 98–88 provided that the amendment made by that section is effective beginning with 1984 crop of extra long staple cotton.

Section 155 of Pub. L. 97–446 provided that the amendment made by that section is effective for 1982 through 1985 crops of upland cotton.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 502 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of upland cotton.

EFFECTIVE AND TERMINATION DATES OF 1978 AMENDMENT

Section 102 of Pub. L. 95–279 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of upland cotton.

Amendment by Pub. L. 95–279 effective Oct. 1, 1978, and applicability to elections by producers receiving loans and payments prior to such date, see section 103 of Pub. L. 95–279, set out as a note under section 1309 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 602 of Pub. L. 95–113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of upland cotton, except as otherwise provided therein.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(20)(C) of Pub. L. 93–86 provided that the amendment made by that section is effective beginning with 1974 crop.

Section 1(20)(D) of Pub. L. 93–86 provided that the amendment made by that section, authorizing Secretary for 1974 through 1977 crops to limit acreage planted in upland cotton on farm in excess of farm base acreage allotment to a percentage of farm base acreage allotment, is effective beginning with 1974 crop.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 602 of Pub. L. 91–524 provided that the amendment made by that section is effective beginning with 1971 crop of upland cotton.

INAPPLICABILITY OF SECTION

Subsec. (a) of this section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(B) of this title.

Pub. L. 101–624, title V, § 503, Nov. 28, 1990, 104 Stat. 3440, provided that: ''Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1991 through 1995 crops.''

Pub. L. 99–198, title V, § 504, Dec. 23, 1985, 99 Stat. 1418, provided that: ''Sections 103(a) and 203 of the Agricultural Act of 1949 (7 U.S.C. 1444(a) and 1446d) shall not be applicable to the 1986 through 1990 crops.''

Pub. L. 97–98, title V, § 504, Dec. 22, 1981, 95 Stat. 1241, provided that: ''Sections 103(a) and 203 of the Agricultural Act of 1949 [sections 1444(a) and 1446d of this title] shall not be applicable to the 1982 through 1985 crops.''

Pub. L. 95–113, title VI, § 604(c), Sept. 29, 1977, 91 Stat. 939, provided that: ''Sections 103(a) and 203 of the Agricultural Act of 1949, as amended [sections 1444(a) and 1446d of this title] shall not be applicable to the 1978 through 1981 crops.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1348, 1349, 1350, 1377, 1428, 7301 of this title.

§ 1444–1. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 103A, as added Dec. 23, 1985, Pub. L. 99–198, title V, § 501, 99 Stat. 1407; amended Mar. 20, 1986, Pub. L. 99–260, § 2(c), 100 Stat. 46; May 27, 1987, Pub. L. 100–45, § 4, 101 Stat. 319; Dec. 22, 1987, Pub. L. 100–203, title I, §§ 1101(c), 1102(c), 1113(c), 101 Stat. 1330–1, 1330–3, 1330–9, related to loan rates, target prices, disaster payments, acreage limita-

tion program, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 501 of Pub. L. 99–198 provided that this section is effective only for 1986 through 1990 crops of upland cotton.

§ 1444–2. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(B), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 103B, as added Nov. 28, 1990, Pub. L. 101–624, title V, § 501, 104 Stat. 3421; amended Nov. 5, 1990, Pub. L. 101–508, title I, § 1101(c), 104 Stat. 1388–1; Dec. 13, 1991, Pub. L. 102–237, title I, §§ 102(b), 106(b), 107, 113(2), (3), 125, 126, 105 Stat. 1821, 1825, 1827, 1837, 1845; Aug. 10, 1993, Pub. L. 103–66, title I, § 1101(a), 107 Stat. 313; May 6, 1994, Pub. L. 103–247, § 1(a), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(3), 108 Stat. 3207; Dec. 8, 1994, Pub. L. 103–465, title IV, § 401(b)(2), 108 Stat. 4957; Aug. 20, 1996, Pub. L. 104–188, title I, § 1954(b)(5), 110 Stat. 1928, related to loans, payments, and acreage reduction programs for 1991 through 1997 crops of upland cotton.

§ 1444a. Corn and feed grains and cotton programs

(a) Referendum of 1958 corn producers

Not later than December 15, 1958, the Secretary shall conduct a referendum of producers of corn in 1958 in the commercial corn-producing area for 1958 to determine whether such producers favor a price support program as provided in subsection (b) of this section for the 1959 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and price support as provided in section 1441 of this title.

(b) Operative status of certain provisions

Notwithstanding any other provision of law, if less than a majority of the producers voting in the referendum conducted pursuant to subsection (a) of this section favor a price support program as provided in this subsection (b), the following provisions of law shall become inoperative:

(1) [Section enacted section 1329a of this title.]

(2) [Section enacted section 1444b of this title.]

(3) [Section repealed section 1441(d)(4) of this title.]

(c) Cotton research program

The Secretary of Agriculture is hereby authorized and directed to conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States at the earliest practicable date. There are hereby authorized to be appropriated such sums, not to exceed $10,000,000 annually, as may be necessary for the Secretary to carry out this special research program. The Secretary shall report annually to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to the results of such research.

(d) Cotton insect eradication

In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infested, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, established by the Secretary, who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secretary.

The Secretary may issue such regulations as he deems necessary to enforce the provisions of this subsection with respect to achieving the compliance of producers and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed $5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Con-

gress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for to the Secretary for appropriate disposition.

The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any insects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperations authorized by this subsection shall be made through and in consultation with the Secretary of State. The Commodity Credit Corporation shall not make any expenditures for carrying out the purposes of this subsection unless the Corporation has received funds to cover such expenditures from appropriations made to carry out the purposes of this subsection. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection.

(Oct. 31, 1949, ch. 792, title I, § 104, as added Aug. 28, 1958, Pub. L. 85–835, title II, § 201, 72 Stat. 993; amended Apr. 11, 1964, Pub. L. 88–297, title I, § 103(a), 78 Stat. 174; Nov. 30, 1970, Pub. L. 91–524, title VI, § 611, as added Aug. 10, 1973, Pub. L. 93–86, § 1(24), 87 Stat. 235; Nov. 2, 1994, Pub. L. 103–437, § 4(a)(6), 108 Stat. 4581.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (a), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

This Act, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Subsec. (b)(1) of this section, as added by section 201 of Pub. L. 85–835, enacted section 330 of Agricultural Adjustment Act of 1938, which is classified as section 1329a of this title.

Subsec. (b)(2) of this section, as added by section 201 of Pub. L. 85–835, enacted section 105 of Agricultural Act of 1949, which is classified as section 1444b of this title.

Subsec. (b)(3) of this section, as added by section 201 of Pub. L. 85–835, repealed section 101(d)(4) of Agricultural Act of 1949, and was executed to text in the repeal of section 1441(d)(4) of this title.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

1973—Subsec. (d). Pub. L. 91–524, § 611, as added Pub. L. 93–86, § 1(24), added subsec. (d).

1964—Subsec. (c). Pub. L. 88–297 added subsec. (c).

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in subsec. (b) of this section (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1444b. Feed grains; price support program

(a) Notwithstanding the provisions of section 1441 of this title, beginning with the 1964 crop, price support shall be made available to producers for each crop of corn at such level, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn: *Provided*, That in the case of any crop for which an acreage diversion program is in effect for feed grains, the level of price support for corn of such crop shall be at such level not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

(b) Beginning with the 1959 crop, price support shall be made available to producers for each crop of oats, rye, barley, and grain sorghums at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

(Oct. 31, 1949, ch. 792, title I, § 105, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(2), as added Aug. 28, 1958, Pub. L. 85–835, title II, § 201, 72 Stat. 994; amended Mar. 22, 1961, Pub. L. 87–5, § 1, 75 Stat. 6; Aug. 8, 1961, Pub. L. 87–128, title I, § 131, 75 Stat. 301; Mar. 30, 1962, Pub. L. 87–425, § 1, 76 Stat. 50; Sept. 27, 1962, Pub. L. 87–703, title III, §§ 301, 305, 76 Stat. 612, 614; May 20, 1963, Pub. L. 88–26, § 2, 77 Stat. 44; Aug. 6, 1965, Pub. L. 89–112, § 1, 79 Stat. 446; Nov. 3, 1965, Pub. L. 89–321, title III, § 301, 79 Stat. 1188; June 17, 1966, Pub. L. 89–451, § 2, 80 Stat. 202; Nov. 3, 1965, Pub. L. 89–321, title III, § 301, as amended Oct. 11, 1968, Pub. L. 90–559, § 1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title V, § 501, 84 Stat. 1368; Nov. 30, 1970, Pub. L. 91–524, title V, § 501, as amended Aug. 10, 1973, Pub. L. 93–86, § 1(18), 87 Stat. 230; Aug. 10, 1973, Pub. L. 93–86, § 1(18), 87 Stat. 230; Aug. 10, 1973, Pub. L. 93–86, § 1(18), as amended Oct. 18, 1973, Pub. L. 93–125, § 1(d), 87 Stat. 450; Dec. 29, 1973, Pub. L. 93–228, § 1(b), 87 Stat. 944.)

CODIFICATION

Pub. L. 91–524, as amended by Pub. L. 93–86, amended section generally by substantially revising subsecs. (a) to (e) and enacting subsecs. (f) to (i), effective only through the 1977 crops of feed grains. See 1970 and 1973 Amendment notes and Effective and Termination Dates of 1970 and 1973 Amendment notes below. Prior to such amendment by Pub. L. 91–524 and Pub. L. 93–86, subsec. (c) was applicable only to the 1961 to 1963 crops of feed grains, subsec. (d) was applicable only to the 1964 and 1965 crops of feed grains, and subsec. (e) was applicable only to the 1966 through 1970 crops of feed grains.

AMENDMENTS

1973—Pub. L. 93–228 amended feed grains program for 1974 through 1977, as described below.

Pub. L. 93–125 amended feed grain loan and purchases price support program for 1974 through 1977, as described below.

Pub. L. 93–86 temporarily enacted feed grain loans and purchases price support program for 1974 through 1977, as described below. See Effective and Termination Dates of 1973 Amendment note below.

Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(A), reenacted introductory text without change.

Subsec. (a)(1). Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(A), increased minimum corn crop support level from $1.00 to $1.10 per bushel.

Subsec. (a)(2). Pub. L. 91–524, § 501, as amended Pub. L. 93–36, § 1(18)(A), reenacted par. (2) provisions without change.

Subsec. (b)(1). Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(B), added par. (1). Former par. (1) related to subject matter as described in 1970 Amendment note for subsec. (b)(1) of this section.

Subsec. (b)(1) last sentence. Pub. L. 93–228 substituted ''(or of wheat, or cotton planted in lieu of the allotted crop)'' for ''(or other nonconserving crop planted instead of feed grains)''.

Subsec. (b)(2). Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(B), added par. (2). Former par. (2) made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91–524, § 501, as amended Pub. L. 93–86, § 1(18)(B), substituted in: first sentence, ''the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment'' for ''the portion of the feed grain base for the farm on which payments are available under this subsection, the feed grain base for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than such portion of the feed grain base for the farm, but such reduction shall not exceed 20 per centum of the feed grain base''; second sentence, including proviso, ''feed grain allotment'' for ''feed grain base''; third sentence, ''feed grain allotments'' for ''feed grain bases''; fourth sentence, ''90 per centum of the feed grain allotment'' for ''90 per centum of the portion of the feed grain base on which payments are made available'' and ''100 per centum of such allotment'' for ''100 per centum of such portion''; and sixth sentence ''effective operation of the program'' for ''effective operation of the feed grain or soybean program''; and authorized acreage devoted to guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, to be considered as feed grain acreage.

Subsec. (c)(1) second sentence. Pub. L. 93–86, § 1(18)(D), formerly § 1(18)(C [second]), renumbered by Pub. L. 93–125, § 1(d)(ii), substituted in item (i) ''feed grain allotment'' for ''feed grain base'', inserted preceding item (ii) '', if required by the Secretary'', and substituted in item (ii) ''soil conserving uses'' for ''soil-conserving uses''.

Subsec. (c)(1) third sentence. Pub. L. 93–86, § 1(18)(E), formerly § 1(18)(D), renumbered by Pub. L. 93–125, § 1(d)(ii), substituted ''The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment.'' for ''The Secretary is authorized for the 1971, 1972, and 1973 crops to limit the acreage planted to feed grains on the farm to such percentage of the feed grain base as he determines necessary to provide an orderly transition to the program provided for under this section.''

Subsec. (c)(1) fifth sentence. Pub. L. 93–86, § 1(18)(D), formerly § 1(18)(C [second]), renumbered by Pub. L. 93–125, § 1(d)(ii), substituted ''1971 through 1977'' for ''1971, 1972, 1973''.

Subsec. (c)(1) last sentence. Pub. L. 93–86, § 1(18)(C), as amended Pub. L. 93–125, § 1(d)(i), authorized set-aside acreage to be devoted to hay and production of triticale, oats, and rye, and deleted item (1) and (2) designation of existing provisions, and former introductory text reading ''Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of title 16, and subject to this limitation'', and provided for such provisions as run-in rather than new-paragraph text.

Subsec. (c)(3). Pub. L. 93–86, § 1(18)(G), formerly § 1(18)(F), renumbered by Pub. L. 93–125, § 1(d)(ii), inserted after provision for devotion of set-aside acreage and diverted acreage to wildlife food plots or wildlife habitat the sentence ''The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences.''

Subsec. (e)(1). Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93–125, § 1(d)(ii), struck out provision reading ''For the purpose of this section, the feed grain base shall be the average acreage devoted on the farm to corn, grain sorghums and, if designated by the Secretary, barley in 1959 and 1960.''

Subsec. (e)(2). Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93–125, § 1(d)(ii), substituted ''farm grain allotments'' for ''farm grain bases'' wherever appearing.

Subsec. (e)(3). Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93–125, § 1(d)(ii), struck out provisions respecting reservation for farms in a State for any year for apportionment to farms without 1959 and 1960 acreage, apportionment factors, prohibition against reflection of new cropland by such reserved allocation, and consideration of farm feed grain base as farm feed grain acreage for 1959 and 1960 crop years.

Subsec. (g). Pub. L. 93–86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93–125, § 1(d)(ii), struck out provisions for preliminary payments, time and rate of payment, and reduction of preliminary payment rate.

1970—Pub. L. 91–524 temporarily enacted feed grains loans and purchases price support program for 1971, 1972, and 1973, as described below. See Effective and Termination Dates of 1970 Amendment note below.

Pub. L. 91–524 substituted as introductory text ''Notwithstanding any other provision of law'' for former subsec. (a) introductory text ''Notwithstanding the provisions of section 1441 of this title''.

Subsec. (a)(1). Pub. L. 91–524 substituted par. (1) provisions making loans and purchases available on corn crop at such level, not less than $1.00 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage exportation of feed grains and not result in excessive total stocks of feed grains in the United States for former subsec. (a) provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn, including proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (a)(2). Pub. L. 91–524 substituted par. (2) provisions making loans and purchases available on each crop of barley, oats, and rye, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of

such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn for former subsec. (b) provisions for such price support level on each crop of oats, rye, barley, and grain sorghums, beginning with the 1959 crop, at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

Subsec. (b)(1). Pub. L. 91–524 made payments available for crops of corn, grain sorghums, and barley; prescribed as payment rate for corn such rate as, together with the national average market price received by farmers during first five months of the marketing year for the crop would not be less than (A) $1.35 per bushel, or (B) 70 per centum of the parity price of corn as of the beginning of the marketing year, whichever was the greater; prescribed as payment rate for grain sorghums and barley such rate as was fair and reasonable in relation to the rate at which payments were made available for corn; and prescribed rate of payment for 1973 crop would not be such as would result in a total amount of payments which Secretary estimated would be made pursuant to this subsection with respect to 1973 crop of feed grains above total amount of payments made pursuant to this subsection with respect to 1972 crop of feed grains by reason of level specified in clause (B) being fixed above 68 per centum of the parity price for the corn.

Subsec. (b)(2). Pub. L. 91–524 made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91–524 added par. (3).

Former subsec. (b) provided that ''Beginning with the 1959 crop, price support shall be made available to producers for each crop of oats, rye, barley, and grain sorghums at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title,'' and is now incorporated in subsec. (a)(2) of this section.

Subsec. (c)(1). Pub. L. 91–524 required cropland set-aside, taking into consideration excessive stocks and adequate carryover, and provided for conservation uses acreage, crop year feed grain acreage limitation, ''feed grains'' for consideration of wheat as feed grain acreage, consideration of section 1339c feed grains diversion program, grazing restriction, and authorization of set-aside acreage for grazing and production of other commodities.

Subsec. (c)(2). Pub. L. 91–524 provided for land diversion payments for conservation uses acreage and for conservation uses acreage limitation.

Subsec. (c)(3). Pub. L. 91–524 required protective measures and provided for wildlife use standards and additional payments for public use.

Subsec. (c)(4). Pub. L. 91–524 provided for filing of participation agreement of farm operators, soil conserving uses acreage requirement, and mutual termination of agreement because of emergencies or limited supplies.

Subsec. (c)(5), (6). Pub. L. 91–524 struck out pars. (5) and (6) which related to price support for 1963 crop of corn and to eligibility for price support on 1963 crop of corn, grain sorghums, and barley.

Subsec. (d). Pub. L. 91–524 redesignated ninth sentence of former subsec. (e) as (d) and substituted ''sharing of payments under this section among producers on the farm on a fair and equitable basis'' for ''sharing of such certificates among producers on the farm on the basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable''.

Subsec. (e). Pub. L. 91–524 added subsec. (e).

Subsec. (f). Pub. L. 91–524 redesignated last sentence of former subsec. (e) as (f) and substituted ''under this section precludes the making of loans, purchases, and payments'' and ''make such loans, purchases, and payments'' for ''under this subsection (e) and subsection (e) of this section preclude the making of payments-in-kind'' and ''make such payments-in-kind''.

Subsecs. (g) to (i). Pub. L. 91–524 added subsecs. (g) to (i).

1968—Pub. L. 90–559 amended feed grains price support program for 1966 through 1969, extending such program through 1970.

Subsec. (e). Pub. L. 89–321, as amended Pub. L. 90–559, substituted ''1970'' for ''1969'' in provision of text ''1966 through 1970 crops of feed grains''.

1966—Pub. L. 89–451 amended feed grains price support program for 1966 through 1969.

Subsec. (e). Pub. L. 89–451 substituted ''planted to any other crop for which there are marketing quotas or voluntary adjustment programs in effect'' for ''planted to any other income-producing crop during such year'' in sixth sentence.

1965—Pub. L. 89–321 enacted feed grains price support program for 1966 through 1969.

Pub. L. 89–112 amended feed grains price support program for 1965.

Subsec. (d). Pub. L. 89–112 inserted eleventh sentence ''An acreage on the farm which the Secretary finds was not planted to feed grains in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965.''

Subsec. (e). Pub. L. 89–321, in adding subsec. (e), enacted feed grains price support program for 1966 through 1969.

Subsec. (e) first sentence. Pub. L. 89–321 required as a condition of eligibility for price support for 1966 through 1969 crops of feed grains on crop of feed grains included in any acreage diversion program under section 590p(i) of Title 16, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1966 through 1969 crops, that feed grain base be not exceeded by producer, provided that acreage on farm diverted from production of feed grains pursuant to contract under Cropland Adjustment Program shall be deemed acreage diverted from production of feed grains for purposes of eligibility requirements, and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (e) second sentence. Pub. L. 89–321 incorporated third sentence of former subsec. (d) as second sentence of subsec. (e) and substituted ''price-support'' and ''payments-in-kind'' for ''price support'' and ''payments in kind''.

Subsec. (e) third sentence. Pub. L. 89–321 made payments-in-kind available on maximum permitted acre-

age and authorized the Secretary to make available the same total amount on a smaller acreage or acreages at a higher rate or rates.

Subsec. (e) fourth sentence. Pub. L. 89–321 incorporated fourth sentence of former subsec. (d) as fourth sentence of subsec. (e), substituted bushel determination provision calling for multiplication of that part of the actual acreage of such feed grain planted on the farm for harvest on which the Secretary made such payments available by the farm projected yield per acre for prior provision calling for such multiplication of actual acreage of such feed grain planted on the farm for harvest by the adjusted average yield per acre, and inserted proviso respecting consideration of soybean as feed grain acreage to such extent and subject to such terms and conditions as Secretary determined would not impair effective operation of price support program and proviso deeming entire feed grains acreage as so planted when 90 per centum of feed grains acreage permitted to be planted has been so planted.

Subsec. (e) fifth sentence. Pub. L. 89–321 authorized reduction of that portion of the support price which was made available through loans and purchases for the 1966 through 1969 crops below the loan level for the 1965 crop by such amounts and in such stages as might be necessary to promote increased participation in the feed grain program, taking into account increases in yields, but so as not to disrupt the feed grain and livestock economy, without modifying or affecting Secretary's discretion to maintain or increase total price support levels to cooperators.

Subsec. (e) sixth sentence. Pub. L. 89–321 incorporated eleventh sentence of former subsec. (d) as sixth sentence of subsec. (e) and substituted ''planted to feed grains'' for ''planted to feed grains in 1965'' and ''deemed to be an actual acreage of feed grains planted for harvest for purposes of such payments provided such acreage is not subsequently planted to any other income-producing crop during such year'' for ''deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965''.

Subsec. (e) seventh sentence. Pub. L. 89–321 incorporated sixth sentence of former subsec. (d) as seventh sentence of subsec. (e).

Subsec. (e) eighth sentence. Pub. L. 89–321 incorporated seventh sentence of former subsec. (d) as eighth sentence of subsec. (e) and substituted ''Payments-in-kind'' for ''Such payments in kind'', parenthetical text ''valued by the Secretary at not less than the current support price made available through loans and purchases'' for ''valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind'', and ''in accordance with regulations prescribed by the Secretary and notwithstanding any other provision of law'' for ''and, notwithstanding any other provisions of law''.

Subsec. (e) ninth sentence. Pub. L. 89–321 incorporated ninth sentence of former subsec. (d) as ninth sentence of subsec. (e) and substituted ''basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable'' for ''basis of their respective shares in the crop produced on the farm with respect to which such certificates are issued, or the proceeds therefrom''.

Subsec. (e) tenth sentence. Pub. L. 89–321 incorporated tenth sentence of former subsec. (d) as tenth sentence of subsec. (e) and substituted '', in accordance with the provisions of such program,'' for ''in accordance with the provisions of such program''.

Subsec. (e) eleventh sentence. Pub. L. 89–321 authorized the Secretary, where the failure of a producer to comply with the terms and conditions of the programs formulated under subsecs. (d) and (e) of this section precluded making payments-in-kind, to make such payments-in-kind in such amounts as he determined to be equitable in relation to the seriousness of the default.

1963—Pub. L. 88–26 amended feed grains support program for 1962, and enacted feed grains support program for 1964 and 1965, as described hereunder.

Subsec. (a). Pub. L. 88–26, § 2(1), inserted proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (d). Pub. L. 88–26, § 2(2), in adding subsec. (d), enacted feed grains support program for 1964 and 1965.

Subsec. (d) first sentence. Pub. L. 88–26, § 2(2), made subsec. (d) applicable to 1964 and 1965 feed grains crops if an acreage diversion program was in effect under section 590p(h) of title 16.

Subsec. (d) second sentence. Pub. L. 88–26, § 2(2), required as a condition of eligibility for price support on crop of feed grain included in the acreage diversion program, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1964 or 1965 crop, that feed grain base be not exceeded by producer and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (d) third sentence. Pub. L. 88–26, § 2(2), authorized payments in kind for such portion of support price for any feed grain included in the acreage diversion program to assure that benefits of price support and diversion programs inure primarily to those producers who cooperate in feed grains acreage reductions.

Subsec. (d) fourth sentence. Pub. L. 88–26, § 2(2), provided for payments in kind on number of bushels of feed grain determined by multiplying actual acreage of feed grain planted on the farm for harvest by adjusted average yield per acre.

Subsec. (d) fifth sentence. Pub. L. 88–26, § 2(2), made base period used in determining adjusted average yield the same as used for purposes of acreage diversion program under section 590p(h) of title 16.

Subsec. (d) sixth sentence. Pub. L. 88–26, § 2(2), authorized 50 per centum payments to producers in advance of determination of performance.

Subsec. (d) seventh sentence. Pub. L. 88–26, § 2(2), provided for payments in kind through issuance of negotiable certificates, redemption for feed grains by the CCC (such feed grains to be valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind, plus reasonable carrying charges), and for assistance of CCC in marketing of the certificates.

Subsec. (d) eighth sentence. Pub. L. 88–26, § 2(2), provided for deduction from value of negotiable certificates, not presented for redemption within thirty days of date of issuance, or reasonable costs of storage and other carrying charges, for the period beginning thirty days after issuance and ending with date of presentation for redemption.

Subsec. (d) ninth sentence. Pub. L. 88–26, § 2(2), required the Secretary to provide for sharing of negotiable certificates among producers on the farm on basis of respective shares in the crop produced on the farm with respect to which such certificates were issued, or the proceeds therefrom.

Subsec. (d) tenth sentence. Pub. L. 88–26, § 2(2), conditioned availability of price support for feed grains in-

cluded in acreage diversion program, where operator of farm elected to participate in the acreage diversion program, to producers on farm diverting from feed grain production under the program an acreage on the farm equal to number of acres which operator agreed to divert, and agreement so provided.

1962—Pub. L. 87–703 enacted feed grains price support program for 1963.

Pub. L. 87–425 amended feed grains support program for 1962.

Subsec. (a). Pub. L. 87–703, § 305, substituted provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn for former corn price support, beginning with 1959 crop, at 90 per centum of the average price received by farmers during the three calendar years immediately preceding the calendar year in which the marketing year for such crops began, adjusted to offset the effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, provided the level of price support for any crop of corn be not less than 65 per centum of the parity price therefor.

Subsec. (c). Pub. L. 87–703, § 301, in adding pars. (5) and (6), enacted feed grains price support program for 1963, as described hereunder.

Subsec. (c)(4). Pub. L. 87–425 excepted producer of barley on a summer-fallow farm from requirement of participation in special agricultural conservation program for 1962 for barley if such producer did not devote barley farm acreage in excess of average acreage devoted to barley in 1959 and 1960 plus the acreage devoted to summer fallow in 1961 which was diverted from the production of wheat under the special 1962 wheat program and did not devote corn, grain sorghums, and barley farm acreage in excess of 80 per centum of average acreage devoted to corn, grain sorghums, and barley in 1959 and 1960.

Subsec. (c)(5). Pub. L. 87–703, § 301, required establishment of 1963 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine; provided for: payments in kind in amount of 18 cents per bushel of support price for corn, and comparable portion of support price for grain sorghums and barley; such payments on number of bushels of such feed grain determined by multiplying actual acreage of such feed grain planted on the farm for harvest in 1963 by the adjusted average yield per acre for 1959 and 1960 crop acreage of such feed grain; such payments through issuance of negotiable certificates redeemable by CCC for corn, grain sorghums, and barley (such feed grains to be valued by the Secretary at not less than support price minus that part of support price made available through payments in kind) and for CCC assistance to producer in marketing of such certificates; deduction from value of the certificate, in the case of any certificate not presented for redemption within 30 days of date of its issuance, reasonable costs of storage and other carrying charges for period beginning 30 days after its issuance and ending with the date of its presentation for redemption; and basis for sharing of such certificate among producers on the farm; and conditioned availability of price support to inclusion of prescribed acreage diversion where operator of farm elected to participate in the special agricultural conservation program for 1963, for corn, grain sorghums, and barley.

Subsec. (c)(6). Pub. L. 87–703, § 301, required as a condition of eligibility for price support on 1963 crop of corn, grain sorghums, and barley participation of producer in special agricultural conservation program for 1963 for corn, grain sorghums, and barley to the extent prescribed by the Secretary and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1963 if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1963, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1961—Pub. L. 87–128 enacted feed grains price support program for 1962.

Pub. L. 87–5 enacted special feed grains price support program for 1961.

Subsec. (c). Pub. L. 87–128, in adding pars. (3) and (4), enacted feed grains price support program for 1962.

Pub. L. 87–5, in adding pars. (1) and (2), enacted special feed grains price support program for 1961.

Subsec. (c)(1). Pub. L. 87–5 required establishment of 1961 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn and grain sorghums price support available on not to exceed the normal production of 1961 acreage of corn and grain sorghums of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(2). Pub. L. 87–5 required as a condition of eligibility for price support on 1961 crop of corn, grain sorghums, and any other feed grain designated by the Secretary, participation of producer in special agricultural conservation program for 1961 for corn and grain sorghums to the extent prescribed by the Secretary.

Subsec. (c)(3). Pub. L. 87–128 required establishment of 1962 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn, grain sorghums, and barley price support available on not to exceed the normal production of 1962 acreage of corn, grain sorghums, and barley of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(4). Pub. L. 87–128 required as a condition of eligibility for price support on 1962 crop of corn and grain sorghums participation of producer in special agricultural conservation program for 1962 for corn and grain sorghums to the extent prescribed by the Secretary and prohibited farm acreage devoted to barley in excess of average acreage devoted to barley in 1959 and 1960; required as a condition of eligibility for price support on 1962 crop of barley participation of producer in special agricultural conservation program for 1962 for barley to the extent prescribed by the Secretary and prohibited farm acreage devoted to corn and grain sorghums in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960; and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1962 for barley if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1962, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1958—Pub. L. 85–835 enacted corn and feed grains price support provisions, beginning with the 1959 crop.

Subsec. (a). Pub. L. 85–835 made corn price support available, beginning with 1959 crop, at 90 per centum of average price received by farmers during three calendar years immediately preceding calendar year in which marketing year for the crop begins, adjusted to offset effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, with minimum price support level at 65 per centum of parity price for any crop of corn.

Subsec. (b). Pub. L. 85–835 made price support available, beginning with 1959 crop, for each crop of oats, rye, barley, and grain sorghums, at such level of parity price as Secretary of Agriculture determined was fair and reasonable in relation to price support level for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 501 of Pub. L. 91–524, as amended by section 1(18) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of feed grains.

Section 501(a), formerly § 501, of Pub. L. 91–524, as renumbered and amended by section 1(18)(A) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops of feed grains.

Section 501(b) of Pub. L. 91–524, as added by section 1(18)(B) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of feed grains.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 501 of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to 1971, 1972, and 1973 crops of feed grains.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(C) of this title.

Pub. L. 101–624, title IV, § 402, Nov. 28, 1990, 104 Stat. 3419, provided that: ''Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1991 through 1995 crops of feed grains.''

Pub. L. 99–198, title IV, § 402, Dec. 23, 1985, 99 Stat. 1406, provided that: ''Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1986 through 1990 crops of feed grains.''

Pub. L. 97–98, title IV, § 402, Dec. 22, 1981, 95 Stat. 1234, provided that: ''Section 105 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of feed grains.''

Pub. L. 95–113, title V, § 503, Sept. 29, 1977, 91 Stat. 933, provided that: ''Section 105 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of feed grains.''

Pub. L. 95–113, title V, § 504, Sept. 29, 1977, 91 Stat. 933, provided that: ''Except as otherwise provided in section 501 of this Act [enacting section 1444c(a)–(c) of this title effective only for the 1977 through 1981 crops of feed grains], section 105(a) and (b)(1) of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended [subsecs. (a) and (b)(1) of this section as amended by Pub. L. 91–524, as amended], to be effective only for the 1974 through 1977 crops of feed grains, shall not be applicable to the 1977 crop of feed grains.''

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254,262) rather than alternative corn acreage allotments and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1444a, 7301 of this title.

§§ 1444c, 1444d. Repealed. Pub. L. 101–624, title IV, § 401(1), Nov. 28, 1990, 104 Stat. 3400

Section 1444c, act Oct. 31, 1949, ch. 792, title I, § 105A, as added Sept. 29, 1977, Pub. L. 95–113, title V, §§ 501, 502, 91 Stat. 928, 930; amended Mar. 18, 1980, Pub. L. 96–213, §§ 2, 4(c), 94 Stat. 119, 120; Sept. 26, 1980, Pub. L. 96–365, title II, § 201(c), 94 Stat. 1320, Dec. 3, 1980, Pub. L. 96–494, title II, § 202(a), 94 Stat. 2570, related to loan rates and target prices for 1977 through 1981 feed grain crops.

Section 1444d, act Oct. 31, 1949, ch. 792, title I, § 105B, as added Dec. 22, 1981, Pub. L. 97–98, title IV, § 401, 95 Stat. 1227; amended Sept. 8, 1982, Pub. L. 97–253, title I, §§ 123, 124, 96 Stat. 769; Sept. 29, 1983, Pub. L. 98–100, § 1(a), 97 Stat. 718; Apr. 10, 1984, Pub. L. 98–258, title II, §§ 201–203, 98 Stat. 132, 133, related to loan rates and target prices for 1982 through 1985 feed grain crops.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1444e. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 105A, formerly § 105C, as added Dec. 23, 1985, Pub. L. 99–198, title IV, § 401, 99 Stat. 1395; amended Feb. 28, 1986, Pub. L. 99–253, § 2, 100 Stat. 36; Mar. 20, 1986, Pub. L. 99–260, §§ 2(b), 7(b), 100 Stat. 46, 50; May 27, 1987, Pub. L. 100–45, § 3, 101 Stat. 319; Dec. 22, 1987, Pub. L. 100–203, title I, §§ 1101(b), 1102(b), 1103, 1107, 1113(b), 1202, 101 Stat. 1330–1 to 1330–3, 1330–5, 1330–9, 1330–11; Dec. 12, 1989, Pub. L. 101–220, § 1, 103 Stat. 1876; Dec. 19, 1989, Pub. L. 101–239, title I, §§ 1002(b), 1003(b)(2), 103 Stat. 2107, 2108; renumbered § 105A, Nov. 28, 1990, Pub. L. 101–624, title IV, § 401(2), 104 Stat. 3400, related to loan rates, target prices, disaster payments, acreage limitation and set-aside programs, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 401 of Pub. L. 99–198 provided that this section is effective only for 1986 through 1990 crops of feed grains.

§ 1444e–1. Loans and purchases for 1986 through 1996 crops of corn

(a) Notwithstanding any other provision of law, effective only for each of the 1986 through 1996 crops of feed grains, the Secretary of Agriculture may make available loans and purchases, as provided in this section, to producers on a farm who—

(1) for silage—

(A) cut corn (including mutilated corn) that the producers have produced in such crop year; or

(B) purchase or exchange corn (including mutilated corn) that has been produced in such crop year by another producer (including a producer that is not participating in an acreage limitation or set-aside program for such crop established by the Secretary); and

(2) participate in an acreage limitation or set-aside program for such crop of corn established by the Secretary.

(b) Such loans and purchases may be made on a quantity of corn of the same crop, other than the corn obtained for silage, acquired by the producer equivalent to a quantity determined by multiplying—

(1) the acreage of corn obtained for silage; by

(2) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such silage was obtained.

(Pub. L. 99–198, title IV, § 403, Dec. 23, 1985, 99 Stat. 1406; Pub. L. 101–624, title IV, § 403, Nov. 28, 1990, 104 Stat. 3419.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624 substituted ''1996'' for ''1990'' in introductory provisions.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

§ 1444f. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(C), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 105B, as added Nov. 28, 1990, Pub. L. 101–624, title IV, § 401(3), 104 Stat. 3401; amended Nov. 5, 1990, Pub. L. 101–508, title I, §§ 1101(b), 1102(b), 1103(b), 104 Stat. 1388–1, 1388–2; Dec. 13, 1991, Pub. L. 102–237, title I, §§ 102(c), 103(a), 105, 106(c), 108, 113(4), (5), 114(b)(1), 105 Stat. 1822, 1823, 1825, 1828, 1837, 1839; Aug. 10, 1993, Pub. L. 103–66, title I, § 1103, 107 Stat. 315; May 6, 1994, Pub. L. 103–247, § 1(b), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(4), 108 Stat. 3207, related to loans, payments, and acreage reduction programs for 1991 through 1995 crops of feed grains.

§ 1444f–1. Repealed. Pub. L. 102–237, title I, § 114(b)(2), Dec. 13, 1991, 105 Stat. 1840

Section, Pub. L. 101–624, title IV, § 404, Nov. 28, 1990, 104 Stat. 3419, related to price support for high moisture feed grains. See section 1444f(q) of this title.

§ 1445. Tobacco price support levels for 1960 and subsequent years

Notwithstanding any of the provisions of section 1441 of this title: (a) For the 1960 crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be the level at which the 1959 crop of such kind of tobacco was supported, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect. (b) For the 1961 crop and each subsequent crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be determined by adjusting the support level for the 1959 crop of such kind of tobacco, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect, by multiplying such support level for the 1959 crop by the ratio of (i) the average of the index of prices paid by farmers, including wage rates, interest, and taxes, as defined in section 1301(a)(1)(C) of this title, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (ii) the average index of such prices paid by farmers, including wage rates, interest, and taxes for the calendar year 1959.

(c) If acreage poundage or poundage farm marketing quotas are in effect under section 1314c or 1314e of this title, (1) price support shall not be made available on tobacco marketed in excess of 103 per centum of the marketing quota (after adjustments) for the farm on which such tobacco was produced, and (2) for the purpose of price-support eligibility, tobacco carried over from one marketing year to another shall, when marketed, be considered tobacco of the then current crop.

(d) Notwithstanding the provisions of section 1423 of this title, 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.

(e) Omitted

(f) Notwithstanding the foregoing provisions of this section—

(1) For the 1984 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported.

(2) For the 1985 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported, plus or minus, respectively, the amount by which (A) the support level for the 1985 crop, as determined under subsection (b) of this section, is greater or less than (B) the support level for the 1984 crop, as determined under subsection (b) of this section, as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (A) is greater than the support level under clause (B), except that the support level for the 1985 crop shall be the level in cents per pound at which the 1982 crop was supported if the support level as determined under subsection (b) of this section for

the 1985 crop would not be more than 5 per centum greater than the support level as determined under subsection (b) of this section for the 1984 crop.

(3) For the 1984 crop of any kind of tobacco (other than Flue-cured tobacco) for which marketing quotas are in effect or are not disapproved by producers and for the 1985 crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the Secretary shall establish the support level at such level as will not narrow the normal price support differential between Flue-cured tobacco and such other kind of tobacco. Before establishing the support level under this paragraph for any such kind of tobacco the Secretary shall publish in the Federal Register a notice of the level the Secretary proposes to establish and give an opportunity for the public to comment on the proposal. In determining the level to be established under this paragraph for a particular kind of tobacco, the Secretary shall take into consideration the cost of producing such kind of tobacco, the supply and demand conditions for such kind of tobacco, the comments received in response to the public notice of the proposal, and such other relevant factors as the Secretary determines appropriate.

(4) For the 1985 and 1986 crops of Burley tobacco, the support level shall be $1.488 per pound.

(5) For the 1986 crop of Flue-cured tobacco, the support level shall be $1.438 per pound.

(6)(A) Except as provided in subparagraph (B), for the 1986 and each subsequent crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which—

(i) the support level for the crop for which the determination is being made, as determined under subsection (b) of this section; is greater or less than

(ii) the support level for the immediately preceding crop, as determined under subsection (b) of this section,

as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (i) is greater than the support level under clause (ii).

(B) Notwithstanding subparagraph (A) and subsection (d) of this section, if requested by the board of directors of an association through which price support for the respective kind of tobacco specified in subparagraph (A) is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco.

(7)(A) For the 1987 and each subsequent crop of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

(i) 66.7 percent of the amount by which—

(I) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

(II) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(ii) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

(B) For purposes of subparagraph (A)—

(i) the average market price for Burley tobacco for the 1985 marketing year shall be reduced by $0.039 per pound;

(ii) the average market price for Burley tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound;

(iii) the average market price for Flue-cured tobacco for the 1985 marketing year shall be reduced by $0.25 per pound;

(iv) the average market price for Flue-cured tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound; and

(v) the index of prices paid by tobacco producers shall include items representing general, variable costs of producing tobacco, as determined by the Secretary, but shall not include the cost of land, risk, overhead, management, purchase or leasing of quotas, marketing contributions or assessments, and other costs not directly related to the production of tobacco.

(g)(1) Effective only for each of the 1994 through 1998 crops of tobacco for which price support is made available under this Act, each producer and purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of a producer or purchaser of domestic tobacco, .5 percent of the national price support level for each such crop; and

(B) in the case of an importer of tobacco, 1 percent of the national support price for the same kind of tobacco;

as provided for in this section.

(2) Such producer, purchaser, and importer assessments shall be—

(A) collected in the same manner as provided for in section 1445–1(d)(2) or 1445–2(d)(3) of this title, as applicable; and

(B) enforced in the same manner as provided in section 1445–1(h) or 1445–2(j) of this title, as applicable.

(3) The Secretary may enforce this subsection in the courts of the United States.

(Oct. 31, 1949, ch. 792, title I, § 106, as added Feb. 20, 1960, Pub. L. 86–389, § 1, 74 Stat. 6; amended Apr. 16, 1965, Pub. L. 89–12, § 3, 79 Stat. 72; Apr. 14, 1971, Pub. L. 92–10, § 3, 85 Stat. 27; July 20, 1982, Pub. L. 97–218, title I, § 102, 96 Stat. 201; July 25, 1983, Pub. L. 98–59, § 1, 97 Stat. 296; Nov. 29, 1983, Pub. L. 98–180, title II, § 202, 97 Stat. 1144; Nov. 15, 1985, Pub. L. 99–157, § 6(a), 99 Stat. 818; Apr. 7, 1986, Pub. L. 99–272, title I, §§ 1102, 1105(b), 100 Stat. 84, 90; Dec. 22, 1987, Pub. L. 100–203, title I, § 1104(a), 101 Stat. 1330–4; Nov. 5, 1990, Pub. L. 101–508, title I, § 1105(f), 104 Stat. 1388–6; Aug. 10, 1993, Pub. L. 103–66, title I, § 1106(b)(1), 107 Stat. 321; Dec. 8, 1994, Pub. L. 103–465, title IV, § 422(b), 108 Stat. 4964.)

REFERENCES IN TEXT

This Act, referred to in subsec. (g)(1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1994—Subsec. (g)(1). Pub. L. 103–465, § 422(b)(1)(A), added par. (1) and struck out former par. (1) which read as follows: ''Effective only for each of the 1991 through 1995 crops of tobacco for which price support is made available under this Act, producers and purchasers of such tobacco shall each remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .5 percent of the national price support level for each such crop as otherwise provided for in this section.''

Subsec. (g)(2). Pub. L. 103–465, § 422(b)(1)(B), substituted '', purchaser, and importer'' for ''assessments and purchaser''.

Subsec. (h). Pub. L. 103–465, § 422(b)(2), struck out subsec. (h) which, effective only for 1994 through 1998 crops of tobacco, required importer of tobacco produced outside United States to remit to Commodity Credit Corporation a nonrefundable marketing assessment and provided for computation and payment of assessment and for penalties for failure to comply.

1993—Subsec. (h). Pub. L. 103–66 added subsec. (h).

1990—Subsec. (g). Pub. L. 101–508 added subsec. (g).

1987—Subsec. (f)(8). Pub. L. 100–203 temporarily (see Effective and Termination Dates of 1987 Amendment note below) added par. (8) which read as follows:

''(A) Notwithstanding any other provision of this subsection, in the case of each of the 1988 and 1989 crops of any kind of tobacco, the Secretary shall reduce the support level for such crop by an amount equal to 1.4 percent of the level otherwise established under this subsection. Any such reduction shall not be taken into consideration in determining the support level for a subsequent crop of tobacco.

''(B) In lieu of making any such reduction, the Secretary may impose assessments on the producers and purchasers in an amount sufficient to realize a reduction in outlays equal to the amount that would have been achieved as a result of the reduction required under subparagraph (A). Such assessments shall not apply to purchasers if it is judicially determined that the imposition of the purchaser assessment will adversely affect the contracts entered into under section 1445–3 of this title.''

1986—Subsec. (c)(1). Pub. L. 99–272, § 1105(b), substituted ''103 per centum'' for ''110 per centum''.

Subsec. (f)(4) to (7). Pub. L. 99–272, § 1102(a), added pars. (4) to (7) and struck out former pars. (4) and (5) which read as follows:

''(4) For the 1985 crop of Burley tobacco and for the 1986 and each subsequent crop of any kind of tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported (or if the level for that crop was adjusted under subsection (g) of this section the level at which such crop would have been supported without regard to any adjustment under subsection (g) of this section), plus or minus, respectively, the amount by which (A) the support level for the crop for which the determination is being made, as determined under subsection (b) of this section, is greater or less than (B) the support level for the immediately preceding crop, as determined under subsection (b) of this section, as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (A) is greater than the support level under clause (B).

''(5) For the 1985 crop of Burley tobacco, notwithstanding paragraph (4) of this section, the support level shall be $1.488 per pound.''

Subsec. (g). Pub. L. 99–272, § 1102(b), struck out subsec. (g) which related to the designation of certain grades of Flue-cured tobacco that the Secretary determined to be of such quantity or quality as to impair their marketability, and further reduction of their support rates to reflect their market value.

1985—Subsec. (f)(5). Pub. L. 99–157 added par. (5).

1983—Subsec. (e). Pub. L. 98–59 temporarily added subsec. (e). See Effective and Termination Dates of 1983 Amendments note below.

Subsecs. (f), (g). Pub. L. 98–180 added subsecs. (f) and (g).

1982—Subsec. (d). Pub. L. 97–218 added subsec. (d).

1971—Subsec. (c). Pub. L. 92–10 inserted introductory reference to section 1314e of this title relating to farm poundage quotas for burley tobacco, in item (1) struck out ''(120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section)'' after ''110 per centum'' and inserted ''(after adjustments)'' after ''marketing quota'', and in item (2) struck out ''to avoid marketings in excess of the farm marketing quota'' after ''another''.

1965—Subsec. (c). Pub. L. 89–12 added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective Sept. 13, 1995, see section 422(e) of Pub. L. 103–465, set out as a note under section 1314i of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1104(a) of Pub. L. 100–203 provided that the amendment made by Pub. L. 100–203 is effective only for 1988 and 1989 crops of tobacco.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1102(a) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1985 and subsequent crops of tobacco.

Section 1102(b) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1105(b) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1112 of subtitle B (§§1101–1112) of title I of Pub. L. 99–272 provided that: ''Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle [enacting sections 1314g, 1314h, and 1445–3 of this title, amending sections 511d, 1301, 1312, 1314c, 1314e, 1372, 1445, 1445–1, and 1445–2 of this title, and enacting provisions set out as notes under sections 1301, 1314c, 1314e, 1314g, 1314h, 1372, 1445, 1445–1, and 1445–2 of this title] shall become effective on the date of enactment of this subtitle [Apr. 7, 1986].''

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

Section 202 of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 1 of Pub. L. 98–59 provided that the amendment made by that section is effective for 1983 crop of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 102 of Pub. L. 97–218 provided that the amendment made by that section is effective for 1982 and subsequent crops of tobacco.

WAIVER AUTHORITY OF PRESIDENT

Section 422(c) of Pub. L. 103–465 provided that: ''The President may waive the application to imported tobacco of section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2) or the amendment made in subsection (c) of section 1106 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 323) [amending section 511r of this title] if the President determines that the waiver is necessary or appropriate pursuant to an international agreement entered into by the United States.''

[For effective date of section 422(c) of Pub. L. 103–465, set out above, see Effective Date of 1994 Amendment note above.]

TOBACCO PROGRAM IMPROVEMENTS: CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSES

Section 1101 of subtitle B (§§1101–1112) of title I of Pub. L. 99–272 provided that:

''(a) FINDINGS.—Congress finds that—

''(1) the maintenance of a viable tobacco price support and production adjustment program is in the interests of tobacco producers, purchasers of tobacco, persons employed directly or indirectly by the tobacco industry, and the localities and States whose economies and tax bases are dependent on the tobacco industry;

''(2) the present tobacco price support program is in jeopardy and in need of reform;

''(3) under present law, the levels of price support for tobacco have resulted in market prices for tobacco that are not competitive on the world market;

''(4) as a consequence, extremely large quantities of domestic tobacco have been put under loan and placed in the inventories of the producer-owned cooperative marketing associations that administer the tobacco price support program;

''(5) the increased inventories have led to a significant increase in the assessments producers are required to pay to maintain the tobacco price support program on a 'no net cost' basis;

''(6) such increasingly large assessments are creating a severe hardship on producers;

''(7) the existence of such large inventories poses a threat to the orderly marketing of future crops of tobacco;

''(8) inventories of producer associations must be significantly reduced or the tobacco price support program will collapse;

''(9) the Commodity Credit Corporation is threatened with substantial losses on disposition of these inventories should the tobacco price support program collapse;

''(10) it is imperative that such excess inventories of tobacco be disposed of, under the supervision of the Secretary of Agriculture, in a manner that—

''(A) will not disrupt the orderly marketing of new tobacco crops;

''(B) will minimize any losses to the Federal Government; and

''(C) will be fair and equitable to all tobacco producers and purchasers;

''(11) the mutual cooperation of tobacco producers, tobacco purchasers, producer associations, and the Secretary of Agriculture is necessary—

''(A) to restore the tobacco price support program to a stable condition; and

''(B) to prevent substantial losses to taxpayers that would result from the collapse of the program;

''(12) restoration of stability to the tobacco price support program through a sharing of the cost of that program by purchasers of tobacco along with producers of tobacco is necessary to prevent undue burdens on, or obstruction of, interstate and foreign commerce in tobacco; and

''(13) the system of grading tobacco should be thoroughly reviewed to ensure that grades are assigned to tobacco that properly state the quality of such tobacco.

''(b) PURPOSES.—The purposes of this subtitle [see Effective Date of 1986 Amendment note above] are—

''(1) to encourage cooperation among tobacco producers, tobacco purchasers, and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, the size of inventories of producer associations, and the exposure of taxpayers to large budget outlays;

''(2) to adjust the method by which price support levels and production quotas are calculated to reflect actual market conditions;

''(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of producer associations through which producers of Flue-cured and Burley tobacco are provided price support;

''(4) to provide that purchasers and producers of domestic tobacco share equally in the cost of maintaining the tobacco price support program at no net cost to the taxpayers; and

''(5) to expedite reform of the system of grading tobacco so that grades assigned to tobacco more accurately reflect the quality of such tobacco.''

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

BURLEY TOBACCO IMPORTS; EFFECT ON PRICE-SUPPORT PROGRAM; REVIEW BY SECRETARY OF AGRICULTURE

Secretary of Agriculture to review the effects of imports of Burley tobacco on the Department's Burley-tobacco price-support program whenever the level of price support for any crop of Burley tobacco is increased by less than 65 per centum of the amount that it would have otherwise been increased if the level of price support would have been determined in accordance with subsec. (b) of this section, see section 625 of this title.

TOBACCO PROGRAM COST

Pub. L. 97–98, title XI, §1109, Dec. 22, 1981, 95 Stat. 1266, required Secretary of Agriculture, by January 1982, to promulgate regulations and policies necessary

to carry out intent of Congress that tobacco price support and production adjustment program result in no net cost to taxpayers other than such administrative expense as was incidental to implementation of any commodity program.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 625 of this title.

§ 1445–1. Producer contributions and purchaser assessments for No Net Cost Tobacco Fund

(a) Definitions

As used in the section—

(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;

(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;

(6) the term ''purchaser'' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco; and

(7) 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.

(b) Commodity Credit Corporation loans to associations

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.

(c) Establishment of No Net Cost Tobacco Funds

Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members or paid by or on behalf of purchasers and importers as provided in subsection (d) of this section.

(d) Requirements

The Secretary shall—

(1) require—

(A) that—

(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco 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;

(ii) each purchaser of Flue-cured and Burley quota tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount determined from time to time by the association with the approval of the Secretary, with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association); and

(iii) each importer of Flue-cured or Burley tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount that is equal to the product obtained by multiplying—

(I) the number of pounds of tobacco that is imported by the importer; by

(II) the sum of the amount of per pound producer contributions and purchaser assessments that are payable by domestic producers and purchasers of Flue-cured and Burley tobacco under clauses (i) and (ii); 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

(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 title 26, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

The amount of producer contributions and purchaser assessments shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Fund of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The Secretary shall approve the amount of the contributions and assessments 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) require that any producer contribution or purchaser or importer assessment due under paragraph (1) shall be collected—

(A) from the person who acquired the tobacco involved from the producer, except that if the tobacco is marketed by sale, an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer;

(B) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent, who may—

(i) deduct an amount equal to the producer contribution from the price paid to the producer; and

(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser;

(C) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser; and

(D) if the tobacco involved is imported by an importer, from the importer.[1]

(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[2] under paragraph (5): *Provided*, That, notwithstanding any other provision of law, use by the association of moneys in the Fund, including interest and other earnings, for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of quota tobacco and making loan advances to producers is authorized, and use of such moneys for any other purposes that will be mutually beneficial to producers and purchasers who contribute or pay to the Fund and to the Corporation, shall, if approved by the Secretary, be considered an appropriate use of the Fund;

(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;

(6) effective for the 1982 through 1985 crops of quota tobacco, 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; and

(7) effective for the 1986 and subsequent crops of quota tobacco, 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) exceeds the amounts necessary for the purposes specified in this section, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under this section on terms and conditions established by the association, with the approval of the Secretary.

(e) Failure or refusal of association to comply

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 U.S.C. 714 et seq.].

(f) Termination of loan agreement; dissolution or merger of association; disposition of amounts in Fund

If, under subsection (e) of this section, a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with an-

[1] So in original. The period probably should be a semicolon.

[2] So in original. Probably should be capitalized.

other association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) of this section 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.

(g) Regulations

The Secretary shall issue regulations necessary to carry out the provisions of this section.

(h) Failure to collect contribution or assessment; marketing penalty; civil action for review of penalty

(1)(A) Each person who fails to collect any contribution or assessment as required by subsection (d)(2) of this section and remit such contribution or assessment to the association, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(B) Each importer who fails to pay to the association an assessment as required by subsection (d)(2) of this section at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, for a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(C) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

(D) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the appropriate association, for deposit in the Fund of such association.

(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.

(Oct. 31, 1949, ch. 792, title I, § 106A, as added July 20, 1982, Pub. L. 97–218, title I, § 101, 96 Stat. 197; amended Nov. 29, 1983, Pub. L. 98–180, title II, § 203, 97 Stat. 1145; Apr. 7, 1986, Pub. L. 99–272, title I, § 1108(a), (d), 100 Stat. 92, 95; Oct. 18, 1986, Pub. L. 99–500, § 101(a) [title VI, § 637], 100 Stat. 1783, 1783–34, and Oct. 30, 1986, Pub. L. 99–591, § 101(a) [title VI, § 637], 100 Stat. 3341, 3341–34; Aug. 10, 1993, Pub. L. 103–66, title I, § 1106(b)(2), 107 Stat. 321.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (e), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–66, § 1106(b)(2)(A), inserted ''and importers'' after ''purchasers''.

Subsec. (d)(1)(A)(iii). Pub. L. 103–66, § 1106(b)(2)(B), added cl. (iii).

Subsec. (d)(2). Pub. L. 103–66, § 1106(b)(2)(C), inserted ''or importer'' after ''or purchaser'' in introductory provisions and added subpar. (D).

Subsec. (h)(1)(B) to (D). Pub. L. 103–66, § 1106(b)(2)(D), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1986—Subsec. (a)(6), (7). Pub. L. 99–272, § 1108(a)(1), added par. (6) and redesignated former par. (6) as (7).

Subsec. (c). Pub. L. 99–272, § 1108(a)(2), inserted ''or paid by or on behalf of purchasers'' in second sentence.

Subsec. (d)(1). Pub. L. 99–272, § 1108(a)(3)(C), (D), in provisions following subpar. (B), inserted provisions relating to the determination of the amount of producer contributions and purchaser assessments so as to share equally in maintaining the Fund of the association, with only the 1985 and subsequent crops of Flue-cured and Burley quota tobacco being taken into account, and inserted ''and assessments'' after ''contributions''.

Subsec. (d)(1)(A)(i). Pub. L. 99–500 and Pub. L. 99–591 struck out exception for Burley quota tobacco for 1983 and subsequent crop years.

Subsec. (d)(1)(A)(ii), (iii). Pub. L. 99–500 and Pub. L. 99–591 redesignated cl. (iii) as (ii) and struck out former cl. (ii) setting forth conditions of eligibility for any marketing year of any three-year period for which marketing quotas are in effect.

Pub. L. 99–272, § 1108(a)(3)(A), (B), added cl. (iii).

Subsec. (d)(2). Pub. L. 99–272, § 1108(a)(3)(E), added par. (2) and struck out former par. (2) which read as follows: ''effective for the 1983 crop only, 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;''.

Subsec. (d)(3). Pub. L. 99–272, § 1108(a)(3)(F), substituted ''producers and purchasers who contribute or pay'' for ''producers who contribute''.

Subsec. (d)(6). Pub. L. 99–272, § 1108(a)(3)(H), inserted ''effective for the 1982 through 1985 crops of quota tobacco,''.

Subsec. (d)(7). Pub. L. 99–272, § 1108(a)(3)(G), (I), (L), added par. (7).

Subsec. (h). Pub. L. 99–272, § 1108(a)(4), added subsec. (h).

1983—Subsec. (d)(2). Pub. L. 98–180, § 203(1), substituted ''1983 crop only'' for ''1983 and subsequent crops''.

Subsec. (d)(3). Pub. L. 98–180, § 203(2), inserted proviso authorizing use by the association of moneys in the Fund for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of quota tobacco and making loan advances to producers.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1108(a) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE

Section 101 of Pub. L. 97–218 provided that this section is effective for 1982 and subsequent crops of tobacco.

WAIVER AUTHORITY OF PRESIDENT

For authority of President to waive application of this section to imported tobacco if President determines that waiver is necessary or appropriate pursuant to an international agreement entered into by United States, see section 422(c) of Pub. L. 103–465, set out as a note under section 1445 of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE FOR NO NET COST TOBACCO PROGRAM ACT OF 1982

Section 2 of Pub. L. 97–218 provided that: ''Congress finds that—

''(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981 [see Short Title of 1981 Amendment note set out under section 1281 of this title], 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;

''(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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314, 1314h, 1445, 1445–2 of this title.

§ 1445–2. Marketing assessments to No Net Cost Tobacco Account

(a) Definitions

As used in this section—

(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;

(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, as defined in section 1301(b)(15) of this title, 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;

(7) the term ''Corporation'' shall have the meaning given to it in section 1445–1(a)(2) of this title; and

(8) the term ''purchaser'' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco.

(b) Continued availability of price support; establishment of No Net Cost Tobacco Account

Notwithstanding section 1445–1 of this title, 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 1445–1 of this title 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

(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 1445–1 of this title.

(c) Establishment of No Net Cost Tobacco Account within Commodity Credit Corporation; disposition of amounts in No Net Cost Tobacco Fund

(1) Any Account established for an association under subsection (b)(2) of this section shall be established within the Corporation and shall be comprised of amounts paid by producers, purchasers, and importers under subsection (d) of this section.

(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 1445–1 of this title 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) Payment of assessments to Corporation for deposit into Account; determination and adjustment of amounts; collection

(1)(A) If an Account is established for an association under subsection (b)(2) of this section, then the Secretary shall require (in lieu of any requirement under section 1445–1(d)(1) of this title) 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).

(B) The Secretary shall also require (in lieu of any requirement under section 1445–1(d)(1) of this title) that each purchaser of Flue-cured and Burley quota tobacco shall pay to the Corporation, for deposit in the Account of such association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association).

(C) The Secretary shall also require (in lieu of any requirement under section 1445–1(d)(1) of this title) that each importer of Flue-cured and Burley tobacco shall pay to the Corporation, for deposit in the Account of the association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kinds of tobacco imported by the importer.

(2)(A) 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 and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment 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. Notwithstanding the foregoing provisions of this paragraph, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco shall be determined without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with such association with respect to the 1983 crop of such tobacco.

(B) With respect to the 1985 crop of Burley tobacco, for the purposes of paragraph (1), the marketing assessment shall not be more than 4 cents per pound.

(C) The amount of the assessment to be paid by importers shall be an amount that is equal to the product obtained by multiplying—

(i) the number of pounds of tobacco that is imported by the importer; by

(ii) the sum of the amount of per pound producer and purchaser assessments that are payable by domestic producers and purchasers of the respective kind of tobacco under this paragraph.

(3)(A) Except as provided in subparagraphs (B) and (C), any assessment to be paid by a producer or a purchaser under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer, except that if the tobacco is marketed by sale, an amount equal to the producer assessment may be deducted by the purchaser from the price paid to such producer.

(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or agent, both the producer and the purchaser assessment shall be collected from such warehouseman or agent, who may—

(i) deduct an amount equal to the producer assessment from the price paid to the producer; and

(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser.

(C) If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment shall be collected from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser.

(D) If Flue-cured or Burley tobacco is imported by an importer, any importer assessment required by subsection (d) of this section shall be collected from the importer.

(e) Deposits into Account; insurance against net losses

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) of this section.

(f) Suspension of payment and collection of marketing assessments

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) of this section, that if the Secretary determines that the amount in such Account or the net gains referred to in subsection (h) of this section 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) Disposition of amounts in Account in the event of termination of loan agreement or account or dissolution or merger of association

With respect to any association for which an Account is established under subsection (b)(2) of this section, 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) of this section 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) Net gains

The provisions of section 1445–1(d)(5) of this title 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) of this section.

(i) Regulations

The Secretary shall issue regulations necessary to carry out the provisions of this section.

(j) Failure to collect assessment; marketing penalty; civil action for review of penalty

(1)(A) Each person who fails to collect any assessment as required by subsection (d)(3) of this section and remit such assessment to the Corporation, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(B) Each importer who fails to pay to the Corporation an assessment as required by subsection (d) of this section at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(C) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

(D) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the Corporation, for deposit in the Account of the appropriate association.

(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.

(Oct. 31, 1949, ch. 792, title I, § 106B, as added July 20, 1982, Pub. L. 97–218, title III, § 301, 96 Stat. 207; amended Nov. 29, 1983, Pub. L. 98–180, title II, § 204, 97 Stat. 1145; Nov. 15, 1985, Pub. L. 99–157, § 6(b), 99 Stat. 818; Apr. 7, 1986, Pub. L. 99–272, title I, § 1108(b), 100 Stat. 94; Aug. 10, 1993, Pub. L. 103–66, title I, § 1106(b)(3), 107 Stat. 322.)

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103–66, § 1106(b)(3)(A), substituted ", purchasers, and importers" for "and purchasers".

Subsec. (d). Pub. L. 103–66, § 1106(b)(3)(B)–(D), in par. (1) designated first and second sentences as subpars. (A) and (B), respectively, and added subpar. (C), in par. (2) added subpar. (C), and in par. (3) added subpar. (D).

Subsec. (j)(1)(B) to (D). Pub. L. 103–66, § 1106(b)(3)(E), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1986—Subsec. (a)(8). Pub. L. 99–272, § 1108(b)(1), added par. (8).

Subsec. (c)(1). Pub. L. 99–272, § 1108(b)(2), inserted "and purchasers" after "producers".

Subsec. (d)(1). Pub. L. 99–272, § 1108(b)(3)(A), inserted provision relating to an assessment, in lieu of any requirement under section 1445–1 of this title, to be deposited in the Account of such association, with respect to purchases of all such kind of tobacco marketed by a producer from a farm, including purchases of such to-

bacco from the 1986 and subsequent crops from the association.

Subsec. (d)(2)(A). Pub. L. 99–272, § 1108(b)(3)(B), (C), substituted ''area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment'' for ''area. Such amount'', and inserted provision that amount of assessment for 1986 and subsequent crops of Burley tobacco be determined without regard to any net losses sustained under the loan agreements of the Corporation with such association with respect to the 1983 crop.

Subsec. (d)(3). Pub. L. 99–272, § 1108(b)(3)(D), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''(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.''

Subsec. (j). Pub. L. 99–272, § 1108(b)(4), added subsec. (j).

1985—Subsec. (d)(2). Pub. L. 99–157 designated existing provisions as subpar. (A) and added subpar. (B).

1983—Subsec. (a)(1). Pub. L. 98–180, § 204(1), struck out '', 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'' after ''kind of tobacco''.

Subsec. (a)(5). Pub. L. 98–180, § 204(2), struck out ''except Flue-cured tobacco'' after ''kind of tobacco''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1108(b) of Pub. L. 98–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE

Section 301 of Pub. L. 97–218 provided that this section is effective for the 1982 and subsequent crops of all kinds of tobacco, except Flue-cured tobacco.

WAIVER AUTHORITY OF PRESIDENT

For authority of President to waive application of this section to imported tobacco if President determines that waiver is necessary or appropriate pursuant to an international agreement entered into by United States, see section 422(c) of Pub. L. 103–465, set out as a note under section 1445 of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314, 1314h, 1445 of this title.

§ 1445–3. Purchase of inventory stock

Notwithstanding any other provision of law, in order to reduce or eliminate the excessive inventories of Flue-cured and Burley tobacco held by associations from the 1976 through 1984 crops, and in order to provide for the orderly disposition of such excessive inventories of tobacco in a manner that will not disrupt the orderly marketing of new tobacco crops and will minimize any losses to the Federal Government:

(a) Sale of inventory stock

(1) The producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco shall offer to sell the stocks of Flue-cured tobacco of the association from the 1976 through 1984 crops as provided in this section.

(2) Each producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Burley tobacco shall offer to sell its stocks of Burley tobacco from the 1982 and 1984 crops as provided in this section.

(3)(A)(i) Not later than 30 days after April 7, 1986, the Commodity Credit Corporation shall acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco.

(ii) The Corporation shall, then, offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation considers appropriate.

(B) If the Commodity Credit Corporation has not sold all of the stocks of the 1983 crop of Burley tobacco within 2 years from the date the Corporation calls the loans on such tobacco, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco as provided in this section.

(b) Sale prices

(1)(A) The stocks of Flue-cured tobacco from the 1976 through 1984 crops shall be offered for sale at the base prices, including carrying charges, in effect as of the date of the offer, reduced by—

(i) 90 percent for Flue-cured tobacco from the 1976 through 1981 crops; and

(ii) 10 percent for Flue-cured tobacco from the 1982 through 1984 crops.

(B) The purchasers of the stocks of Flue-cured tobacco from the 1976 through 1984 crops shall pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this section to the date that such tobacco is removed from the inventory of the association.

(2)(A) The stocks of Burley tobacco from the 1982 crop shall be offered for sale at the listed base price in effect as of July 1, 1985.

(B) The stocks of Burley tobacco from the 1984 crop shall be offered for sale at the costs of the association for such tobacco as of April 7, 1986.

(C) The purchasers of the stocks of Burley tobacco from the 1982 crop shall pay the full carrying charges that have accrued to such tobacco.

(D) The purchasers of the stocks of Burley tobacco from the 1984 crop shall pay the full carry-

ing charges that have accrued to such tobacco from April 7, 1986, to the date such tobacco is removed from the inventories of the associations.

(3)(A) After the 2-year period specified in subsection (a)(3)(B) of this section has expired, if the Commodity Credit Corporation offers to sell the stocks of the Corporation of Burley tobacco from the 1983 crop to domestic manufacturers of cigarettes, such stocks shall be offered for sale at the costs of the association, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent.

(B) Neither tobacco producers nor tobacco purchasers shall be responsible for carrying charges that accrue to the 1983 crop of Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

(c) Terms of agreements

(1)(A) Each domestic manufacturer of cigarettes may enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, in accordance with this section.

(B) To be eligible for the reductions in price specified in this section, such manufacturer shall enter into such agreements as soon as practicable, but not later than 90 days after April 7, 1986, except that, with respect to the 1983 crop of Burley tobacco, if the Corporation offers to sell the stocks of such tobacco pursuant to subsection (b)(3)(A) of this section, such agreements shall be entered into as soon as practicable, but not later than 90 days after the end of the 2-year period referred to in subsection (a)(3)(B) of this section.

(C)(i) Such agreements shall provide that, over a period of time, each participating domestic manufacturer of cigarettes shall purchase a percentage of the stocks of Flue-cured and Burley tobacco held—

(I) by the producer-owned cooperative marketing associations at the close of the 1984 marketing year; or

(II) in the case of the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under this section.

(ii) The period of time referred to in clause (i) may not exceed—

(I) in the case of Flue-cured tobacco, 8 years from April 7, 1986;

(II) in the case of Burley tobacco from the 1982 and 1984 crops, 5 years from April 7, 1986; and

(III) in the case of the 1983 crop of Burley tobacco, 5 years from the end of the 2-year period referred to in subsection (a)(3)(B) of this section.

(2)(A)(i) The percentage to be purchased by each participating manufacturer shall be at least equal to the respective percentage of the participating manufacturer of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture under this paragraph on the basis of the monthly reports (''Manufacturer of Tobacco Products—Monthly Reports'') submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

(ii) The Secretary of Agriculture shall request from the Secretary of the Treasury copies of such monthly reports necessary to make the determinations required under this section.

(iii) Notwithstanding any other provision of law, the Secretary of the Treasury may release and disclose such information to the Secretary of Agriculture.

(B) ''Net cigarettes manufactured for use'' shall be computed by subtracting—

(i) the cumulative figures entered for large and small cigarettes in item 16f of ATF Form 3068 (''Reduction to tobacco''); from

(ii) the cumulative figures entered for large and small cigarettes in item 7 of such form (''Manufactured'').

(C)(i) The percentage to be purchased by each participating manufacturer shall be determined—

(I) on April 7, 1986; and

(II) annually thereafter over the course of the respective buy-out periods specified in this subsection.

(ii) Such percentage shall be determined by dividing—

(I) the average net cigarettes manufactured by a manufacturer for use for the 12-month period immediately preceding the appropriate determination date (April 7, 1986, and annually thereafter over the course of the respective buy-out periods specified in this subsection); by

(II) the aggregate average net cigarettes manufactured by all domestic cigarette manufacturers for use for such 12-month period.

(D)(i) The quantity of tobacco to be purchased by each participating manufacturer shall be determined annually.

(ii) Such quantity shall be based on—

(I) the percentage of net cigarettes of a manufacturer manufactured for use, as determined under subparagraph (C); multiplied by

(II) the appropriate annual quantity to be withdrawn from the inventories of the associations or the Commodity Credit Corporation.

(iii) The appropriate annual quantity to be withdrawn from inventories shall be—

(I) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on April 7, 1986;

(II) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on April 7, 1986; and

(III) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date that is 2 years after the call of the loans on such tobacco by the Corporation.

(E) Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this section in any year of the buy-out period that exceed the quantity of the purchases of the manufacturer required under the agreement, as determined under this section, shall be applied against future purchases required of such manufacturer.

(3) In carrying out this section, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation, as may be necessary or appropriate to carry out this section and the purposes of this subtitle.[1]

(d) Approval of agreements

(1)(A) Each agreement entered into under this section shall be submitted to the Secretary of Agriculture for review and approval.

(B) In the case of an agreement to purchase tobacco from the inventory of a producer association, the agreement shall be submitted by the association.

(C) No agreement may become effective until approved by the Secretary.

(2) The Secretary of Agriculture shall not approve any agreement submitted under this section unless the Secretary has determined that—

(A) the agreement—

(i) will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement; and

(ii) is otherwise consistent with the purposes of this subtitle;[1] and

(B) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

(e) Disclosure

The limitations on disclosure set forth in subsections (c) and (d) of section 1314g of this title shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 1314g(c)(4) of this title.

(Pub. L. 99–272, title I, § 1109, Apr. 7, 1986, 100 Stat. 95.)

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (c)(3) and (d)(2)(A)(ii), is subtitle B (§§ 1101–1112) of title I of Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 83, which enacted sections 1314g, 1314h, and 1445–3 of this title, amended sections 511d, 1301, 1312, 1314c, 1314e, 1372, 1445, 1445–1, and 1445–2 of this title, and enacted provisions set out as notes under sections 1301, 1314c, 1314e, 1314g, 1314h, 1372, 1445, 1445–1, and 1445–2 of this title. For complete classification of this subtitle to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Consolidated Omnibus Budget Reconciliation Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445 of this title.

[1] See References in Text note below.

§ 1445a. Wheat price support levels; "cooperator" defined

Notwithstanding the provisions of section 1441 of this title, beginning with the 1964 crop—

(1) Price support for wheat accompanied by domestic certificates shall be at such level not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines appropriate, taking into consideration the factors specified in section 1421(b) of this title.

(2) Price support for wheat accompanied by export certificates shall be at such level not more than 90 per centum of the parity price therefor as the Secretary determines appropriate, taking into consideration the factors specified in section 1421(b) of this title.

(3) Price support for wheat not accompanied by marketing certificates shall be at such level, not in excess of 90 per centum of the parity price therefor, as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains.

(4) Price support shall be made available only to cooperators: and, if a commercial wheat-producing area is established for such crop, price support shall be made available only in the commercial wheat-producing area.

(5) Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year, the level of price support for any crop of wheat for which a national marketing quota is not proclaimed or for which marketing quotas have been disapproved by producers shall be as provided in section 1441 of this title.

(6) A ''cooperator'' with respect to any crop of wheat produced on a farm shall be a producer who (i) does not knowingly exceed (A) the farm acreage allotment for wheat on the farm or (B) except as the Secretary may by regulation prescribe, the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat, and (ii) complies with the land-use requirements of section 1339 of this title, to the extent prescribed by the Secretary. Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year, if marketing quotas are not in effect for the crop of wheat, a ''cooperator'' with respect to any crop of wheat produced on a farm shall be a producer who does not knowingly exceed the farm acreage allotment for wheat. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, but the producer shall not be eligible to receive price support

on such marketing excess. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm, if such farm is exempt from the farm marketing quota for such crop under section 1335 of this title. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to the provisions of section 1379c(b) of this title, but the producer shall not be eligible to receive price support on the wheat so stored.

(Oct. 31, 1949, ch. 792, title I, § 107, as added Sept. 27, 1962, Pub. L. 87–703, title III, § 325(1), 76 Stat. 630; amended Apr. 11, 1964, Pub. L. 88–297, title II, § 203, 78 Stat. 182; Nov. 3, 1965, Pub. L. 89–321, title V, § 506, 79 Stat. 1203; Oct. 11, 1968, Pub. L. 90–559, § 1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title IV, § 401, 84 Stat. 1362; Aug. 10, 1973, Pub. L. 93–86, § 1(8), 87 Stat. 224; Oct. 18, 1973, Pub. L. 93–125, § 1(b), 87 Stat. 450; Dec. 29, 1973, Pub. L. 93–228, § 1(a), 87 Stat. 944.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86, § 1(8)(A), temporarily amended subsec. (a) generally, substituting ''$1.37 per bushel'' for ''$1.25 per bushel''. See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

Subsec. (b). Pub. L. 93–86, § 1(8)(B), temporarily substituted ''payments'' for ''certificates''. See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

Subsec. (c). Pub. L. 93–228 substituted ''(or of cotton, corn, grain sorghums, or barley planted in lieu of wheat)'' for ''(or other nonconserving crop planted instead of wheat)'', in two places.

Pub. L. 93–125 substituted ''prevented from planting any portion'' for ''prevented from planting, any portion''.

Pub. L. 93–86, § 1(8)(C), (D), temporarily added subsec. (c). See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

1970—Pub. L. 91–524 temporarily revised section into subsecs. (a) and (b) which provided for loans on wheat at such levels not in excess of the parity price as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains, provided that, if a set-aside program is in effect, program benefits would be made available only to producers who comply with such set-aside program, and placed a floor on the loan of $1.25 per bushel. See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (2). Pub. L. 90–559 provided for a one year extension through 1970.

1965—Pub. L. 89–321 temporarily raised the wheat support level to 100 per centum of parity or as near to 100 per centum as the Secretary determines to be practicable, placed a floor of 100 per centum of parity for wheat accompanied by marketing certificates and $1.25 for wheat not so accompanied under the 1966 crop, guaranteed to cooperators for 1967 through 1969 crops a total average rate of return per bushel of not less than the total average rate of return per bushel made available to cooperators through loans and domestic marketing certificates for the 1966 crop where the diversion factor is not less than 10 per centum, and eliminated reference to classification as cooperators of producers who do not knowingly exceed the farm acreage allotment for wheat in cases where marketing quotas are not in effect. See Effective and Termination Dates of 1965 Amendment note below.

1964—Subsec. (1). Pub. L. 88–297 substituted ''domestic certificates'' for ''marketing certificates''.

Subsec. (2). Pub. L. 88–297 added subsec. (2). Former subsec. (2) redesignated (3).

Subsec. (3). Pub. L. 88–297 redesignated former subsec. (2) as (3), struck out introductory clause ''if marketing quotas are in effect for wheat'', and inserted ''not in excess of 90 per centum of the parity price therefor.'' Former subsec. (3) redesignated (4).

Subsec. (4). Pub. L. 88–297 redesignated former subsec. (3) as (4). Former subsec. (4) redesignated (5).

Subsec. (5). Pub. L. 88–297 redesignated former subsec. (4) as (5) and inserted introductory phrase ''Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year,''. Former subsec. (5) redesignated (6).

Subsec. (6). Pub. L. 88–297 redesignated former subsec. (5) as (6), struck out introductory clause ''if marketing quotas are in effect for the crop of wheat'', struck out from cl. (i)(A) ''or any other commodity'' after ''wheat'', substituted in cl. (i)(B) ''the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat'' for ''the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer'', inserted ''Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year,'' before ''if marketing quotas'', and inserted provision for deeming a producer as not having exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to section 1379c(b) of this title, but making the producer ineligible to receive price support on the wheat so stored.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 1(8) of Pub. L. 93–86 provided that the amendment made by that section is effective beginning with 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 401 of Pub. L. 91–524, as amended by section 1(8) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Section 506 of Pub. L. 89–321, as amended by Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to 1966 through 1970 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(D) of this title.

Pub. L. 101–624, title III, § 305, Nov. 28, 1990, 104 Stat. 3400, provided that: ''Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1991 through 1995 crops of wheat.''

Pub. L. 99–198, title III, § 312, Dec. 23, 1985, 99 Stat. 1395, provided that: ''Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1986 through 1990 crops of wheat.''

Pub. L. 97–98, title III, § 305, Dec. 22, 1981, 95 Stat. 1227, provided that: ''Section 107 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of wheat.''

Pub. L. 95–113, title IV, § 409, Sept. 29, 1977, 91 Stat. 928, provided that: ''Section 107 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of wheat.''

Pub. L. 95–113, title IV, § 410, Sept. 29, 1977, 91 Stat. 928, provided that: ''Except as otherwise provided in section 401 of this Act [enacting section 1445b(a)–(c) of this title effective only for the 1977 through 1981 crops of wheat], section 107 of the Agricultural Act of 1949, as

added by the Agricultural Act of 1970, as amended [this section as amended by Pub. L. 91–524, as amended], to be effective only for the 1974 through 1977 crops of wheat, shall not be applicable to the 1977 crop of wheat.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379c, 7301 of this title.

§§ 1445b, 1445b–1. Repealed. Pub. L. 101–624, title III, § 301(1), Nov. 28, 1990, 104 Stat. 3382

Section 1445b, act Oct. 31, 1949, ch. 792, title I, § 107A, as added Sept. 29, 1977, Pub. L. 95–113, title IV, §§ 401, 402, 91 Stat. 921, 924; amended Mar. 18, 1980, Pub. L. 96–213, §§ 3, 4(d), 94 Stat. 119, 120; Sept. 26, 1980, Pub. L. 96–365, title II, § 201(d), 94 Stat. 1320; Dec. 3, 1980, Pub. L. 96–494, title II, § 202(b), 94 Stat. 2570, related to loan rates and target prices for the 1977 through 1981 crops of wheat.

Section 1445b–1, act Oct. 31, 1949, ch. 792, title I, § 107B, as added Dec. 22, 1981, Pub. L. 97–98, title III, § 301, 95 Stat. 1221; Sept. 8, 1982, Pub. L. 97–253, title I, §§ 121, 122, 96 Stat. 768; amended Sept. 29, 1983, Pub. L. 98–100, § 1(b), 97 Stat. 718; Apr. 10, 1984, Pub. L. 98–258, title I, §§ 101–103, 98 Stat. 130, 131, related to loan rates and target prices for 1982 through 1985 wheat crops.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1445b–2. Transferred

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 107C, as added Sept. 8, 1982, Pub. L. 97–253, title I, § 120, 96 Stat. 766, and amended, which related to advance deficiency and diversion payments, was renumbered section 114 of act Oct. 31, 1949, by Pub. L. 101–624, title XI, § 1161(a)(1), Nov. 28, 1990, 104 Stat. 3520, and transferred to section 1445j of this title.

§ 1445b–3. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 107A, formerly § 107D, as added Dec. 23, 1985, Pub. L. 99–198, title III, § 308, 99 Stat. 1383; amended Feb. 28, 1986, Pub. L. 99–253, § 1, 100 Stat. 36; Mar. 20, 1986, Pub. L. 99–260, §§ 2(a), 7(a), 100 Stat. 45, 50; Oct. 18, 1986, Pub. L. 99–500, § 152, 100 Stat. 1783–352, and Oct. 30, 1986, Pub. L. 99–591, § 152, 100 Stat. 3341–355; Nov. 10, 1986, Pub. L. 99–641, title II, § 202, 100 Stat. 3563; May 27, 1987, Pub. L. 100–45, § 2, 101 Stat. 318; Dec. 22, 1987, Pub. L. 100–203, title I, §§ 1101(a), 1102(a), 1111, 1113(a), 1201, 101 Stat. 1330–1, 1330–2, 1330–7, 1330–8, 1330–10; renumbered § 107A, Nov. 28, 1990, Pub. L. 101–624, title III, § 301(2), 104 Stat. 3382, related to loan rates and target prices. See Effective and Termination Dates note below.

A prior section 107A of act Oct. 31, 1949, ch. 792, title I, as added Sept. 29, 1977, Pub. L. 95–113, title IV, §§ 401, 402, 91 Stat. 921, 924, was classified to section 1445b of this title, prior to repeal by section 301(1) of Pub. L. 101–624.

EFFECTIVE AND TERMINATION DATES

Section 308 of Pub. L. 99–198 provided that this section is effective only for the 1986 through 1990 crops of wheat.

§ 1445b–3a. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(D), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 107B, as added Nov. 28, 1990, Pub. L. 101–624, title III, § 301(3), 104 Stat. 3382; amended Nov. 5, 1990, Pub. L. 101–508, title I, §§ 1101(a), 1102(a), 104 Stat. 1388–1; Dec. 13, 1991, Pub. L. 102–237, title I, §§ 102(d), 103(b), 106(d), 113(6), 105 Stat. 1822, 1823, 1826, 1837; Aug. 10, 1993, Pub. L. 103–66, title I, § 1102, 107 Stat. 314; Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(5), 108 Stat. 3207, related to loans, payments, and acreage reduction programs for 1991 through 1995 crops of wheat.

§ 1445b–4. Transferred

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 107E, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1005, 99 Stat. 1448, and amended, which related to payments in commodities, was renumbered section 115 of act Oct. 31, 1949, by Pub. L. 101–624, title XI, § 1161(a)(1), Nov. 28, 1990, 104 Stat. 3520, and transferred to section 1445k of this title.

§ 1445b–5. Repealed. Pub. L. 101–624, title XI, § 1161(a)(2), Nov. 28, 1990, 104 Stat. 3520

Section, act Oct. 31, 1949, ch. 792, title I, § 107F, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1006, 99 Stat. 1448, related to export certificate programs for 1986 through 1990 crops of wheat and feed grains.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§§ 1445c, 1445c–1. Repealed. Pub. L. 101–624, title VIII, § 806(1), Nov. 28, 1990, 104 Stat. 3475

Section 1445c, act Oct. 31, 1949, ch. 792, title I, § 108, as added Sept. 29, 1977, Pub. L. 95–113, title VIII, § 807, 91 Stat. 947, related to price support program for 1978 through 1981 crops of peanuts.

Section 1445c–1, act Oct. 31, 1949, ch. 792, title I, § 108A, as added Dec. 22, 1981, Pub. L. 97–98, title VII, § 705, 95 Stat. 1254, related to price support program for 1982 through 1985 crops of peanuts.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1445c–2. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 108A, formerly § 108B, as added Dec. 23, 1985, Pub. L. 99–198, title VII, § 705, 99 Stat. 1439; amended Oct. 18, 1986, Pub. L. 99–500, § 101(a) [title VI, § 639], 100 Stat. 1783, 1783–35, and Oct. 30, 1986, Pub. L. 99–591, § 101(a) [title VI, § 639], 100 Stat. 3341, 3341–35; Nov. 10, 1986, Pub. L. 99–641, title II, § 203, 100 Stat. 3563; Dec. 22, 1987, Pub. L. 100–203, title I, § 1104(b), 101 Stat. 1330–4; renumbered § 108A, Nov. 28, 1990, Pub. L. 101–624, title VIII, § 806(2), 104 Stat. 3475; Dec. 13, 1991, Pub. L. 102–237, title I, § 117(b)(1)(A), 105 Stat. 1841, related to price support, loans, purchases, and other operations, and national average quota support rate. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 705 of Pub. L. 99–198 provided that this section is effective only for the 1986 through 1990 crops of peanuts.

§ 1445c–3. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(E), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 108B, as added Nov. 28, 1990, Pub. L. 101–624, title VIII, § 806(3),

104 Stat. 3475; amended Nov. 5, 1990, Pub. L. 101–508, title I, § 1105(b), 104 Stat. 1388–3; Dec. 13, 1991, Pub. L. 102–237, title I, § 117(b)(1)(B), 105 Stat. 1841; Aug. 10, 1993, Pub. L. 103–66, title I, § 1109(a), 107 Stat. 325, related to price support program for 1991 through 1997 crops of peanuts.

§ 1445d. Special wheat acreage grazing and hay program for 1978 through 1990 crop years

Notwithstanding any other provision of law—

(a) Authorization for program; acreage designation; payment

The Secretary is authorized to administer a special wheat acreage grazing and hay program (hereinafter in this section referred to as the ''special program'') in each of the crop years 1978 through 1990. If a special program is implemented, a producer shall be permitted to designate, under such regulations as established by the Secretary, a portion of the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton for harvest, not in excess of 40 per centum thereof, or 50 acres, whichever is greater, which shall be planted to wheat (or some other commodity other than corn or grain sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. A producer who elects to participate in the special program shall receive a payment as provided in subsection (c) of this section.

(b) Specific farm acreage

Any producer who elects to participate in the special program under this section shall designate the specific acreage on the farm which is to be used for the purposes set forth in subsection (a) of this section. No crop other than hay may be harvested from acreage included in the special program.

(c) Determination of payment

The Secretary shall pay the producer participating in the special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. The producer shall not be eligible for any other payment or price support on any portion of the acreage for the farm which the producer elects to include in the special program.

(d) Other acreage set-aside programs

Acreage included in the special program shall be in addition to any acreage included in any acreage set-aside, reduced acreage, or land diversion program otherwise provided for by law.

(e) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(f) Commodity Credit Corporation

The Secretary shall carry out the special program through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, § 109, as added Sept. 29, 1977, Pub. L. 95–113, title X, § 1004, 91 Stat. 950; amended Dec. 22, 1981, Pub. L. 97–98, title XI, § 1110, 95 Stat. 1267; Dec. 23, 1985, Pub. L. 99–198, title X, § 1015, 99 Stat. 1457.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–198 substituted ''1990'' for ''1985''.

1981—Subsec. (a). Pub. L. 97–98, § 1110(1), (2), substituted ''1985'' for ''1981'' and ''If a special program is implemented'' for ''Under the special program''.

Subsec. (d). Pub. L. 97–98, § 1110(3), inserted '', reduced acreage, or land diversion''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445e. Farmer owned reserve program

(a) In general

The Secretary shall formulate and administer a farmer owned reserve program under which producers of wheat and feed grains will be able to store wheat and feed grains when the commodities are in abundant supply, extend the time period for the orderly marketing of the commodities, and provide for adequate carryover stocks to ensure a reliable supply of the commodities.

(b) Terms of program

(1) Price support loans

In carrying out this program, the Secretary shall provide extended price support loans for wheat and feed grains. An extended loan shall only be made to a producer after the expiration of a 9-month price support loan (hereafter in this section referred to as the ''original loan'') made in accordance with this subchapter.

(2) Level of loans

Loans made under this section shall not be less than the then current level of support under the wheat and feed grain programs established under this subchapter.

(3) Other terms and conditions

The Secretary shall provide for—

(A) repayment of the extended price support loan 27 months from the date on which the original loan expired unless, at the discretion of the Secretary, the loan has been extended for one 6-month period;

(B) a rate of interest as provided under subsection (c) of this section; and

(C) payments to producers for storage as provided in subsection (d) of this section.

(4) Regional differences

The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in the program established under this section, taking into account regional differences in the time of harvest.

(c) Interest charges

(1) Levying of interest

The Secretary may charge interest on loans under this section whenever the price of wheat

or feed grains is equal to or exceeds 105 percent of the then current established price for the commodity.

(2) 90-day period

If interest is levied on the loans under paragraph (1), the interest may be charged for a period of 90 days after the last day on which the price of wheat or feed grains was equal to or in excess of 105 percent of the established price for the commodities.

(3) Rate of interest

The rate of interest charged participants in this program shall not be less than the rate of interest charged by the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust the interest as the Secretary considers appropriate to effectuate the purposes of this section.

(d) Storage payments

(1) In general

The Secretary shall provide storage payments to producers for storage of wheat or feed grains under the program established in this section in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program.

(2) Timing

The Secretary shall make storage payments available to participants in this program at the end of each quarter.

(3) Duration

The Secretary shall cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds 95 percent of the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of 95 percent of the then current established price for the commodities.

(e) Emergencies

Notwithstanding any other provision of law, the Secretary may require producers to repay loans made under this section, plus accrued interest and such other charges as may be required by regulation prior to the maturity date thereof, if the Secretary determines that emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs and the Secretary reports the determination and the reasons for the determination to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days before taking the action.

(f) Quantity of commodities in program

The Secretary may establish maximum quantities of wheat and feed grains that may receive loans and storage payments under this program as follows:

(1) The maximum quantities of wheat may not be established at less than 300 million bushels, nor more than 450 million bushels.

(2) The maximum quantities of feed grains may not be established at less than 600 million bushels, nor more than 900 million bushels.

(g) Announcement of program

(1) Time of announcement

The Secretary shall announce the terms and conditions of the producer storage program for a crop of wheat and feed grains by—

(A) in the case of wheat, December 15 of the year in which the crop of wheat was harvested; and

(B) in the case of feed grains, March 15 of the year following the year in which the crop of corn was harvested.

(2) Discretionary entry

The Secretary may make extended loans available to producers of wheat or feed grains if—

(A) the Secretary determines that the average market price for wheat or corn, respectively, for the 90-day period prior to the dates specified in paragraph (1) is less than 120 percent of the current loan rate for wheat or corn, respectively; or

(B) as of the appropriate date specified in paragraph (1), the Secretary estimates that the stocks-to-use ratio on the last day of the current marketing year will be—

(i) in the case of wheat, more than 37.5 percent; and

(ii) in the case of corn, more than 22.5 percent.

(3) Mandatory entry

The Secretary shall make extended loans available to producers of wheat or feed grains if the conditions specified in subparagraphs (A) and (B) of paragraph (2) are met for wheat or feed grains, respectively.

(4) Content of announcement

In the announcement, the Secretary shall specify the maximum quantity of wheat or feed grains to be stored under this program that the Secretary determines appropriate to promote the orderly marketing of the commodities.

(h) Discretionary exit

A producer may repay a loan extended under this section at any time.

(i) Reconcentration of grain

The Secretary may, with the concurrence of the owner of grain stored under this program, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by the producer's or warehouseman's commitment.

(j) Management of grain

Whenever grain is stored under this section, the Secretary may buy and sell at an equivalent

price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodities that the Commodity Credit Corporation owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

(k) Use of Commodity Credit Corporation

The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to fulfill the purposes of this section. To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(*l*) Use of commodity certificates

Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the Secretary may allow a producer to repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county.

(m) Additional authority

The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.

(n) Regulations

The Secretary of Agriculture shall issue such regulations as are necessary to carry out this section not later than 60 days after November 28, 1990.

(*o*) Review

In announcing the terms and conditions of the producer storage program under this section, the Secretary shall review standards concerning the quality of grain that shall be allowed to be stored under the program, and such standards should encourage only quality grain, as determined by the Secretary, to be pledged as collateral for such loans. The Secretary shall review inspection, maintenance, and stock rotation requirements and take the necessary steps to maintain the quality of such grain.

(p) Crops

Notwithstanding any other provision of law, this section shall become effective December 1, 1990.

(Oct. 31, 1949, ch. 792, title I, § 110, as added Sept. 29, 1977, Pub. L. 95–113, title XI, § 1101, 91 Stat. 951; amended Apr. 11, 1980, Pub. L. 96–234, §§ 1, 2, 94 Stat. 333; Dec. 3, 1980, Pub. L. 96–494, title II, §§ 203(a), 204, 205, 94 Stat. 2571, 2572; July 23, 1981, Pub. L. 97–24, § 2, 95 Stat. 143; Dec. 22, 1981, Pub. L. 97–98, title X, § 1001, 95 Stat. 1257; Dec. 23, 1985, Pub. L. 99–198, title X, § 1012(a), 99 Stat. 1455; Dec. 22, 1987, Pub. L. 100–203, title I, § 1108, 101 Stat. 1330–6; Aug. 11, 1988, Pub. L. 100–387, title III, § 303(b), 102 Stat. 947; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1123, title XX, § 2010, 104 Stat. 3503, 3932; Dec. 13, 1991, Pub. L. 102–237, title I, § 113(7), 105 Stat. 1837.)

AMENDMENTS

1991—Subsec. (k). Pub. L. 102–237, § 113(7)(C)(i), redesignated subsec. (k), relating to review, as (*o*).

Subsec. (n). Pub. L. 102–237, § 113(7)(A), substituted ''November 28, 1990'' for ''the date of enactment of this section''.

Subsec. (*o*). Pub. L. 102–237, § 113(7)(C), redesignated subsec. (k), relating to review, as (*o*), inserted heading, and substituted ''this section'' for ''subsection (e)(1)''.

Pub. L. 102–237, § 113(7)(B), redesignated subsec. (*o*) as (p).

Subsec. (p). Pub. L. 102–237, § 113(7)(B), redesignated subsec. (*o*) as (p).

1990—Pub. L. 101–624, § 1123, amended section generally, substituting provisions relating to the farmer owned reserve program for provisions relating to the establishment and maintenance of the producer reserve program for wheat and feed grains.

Subsec. (k). Pub. L. 101–624, § 2010, added subsec. (k) relating to review.

1988—Subsec. (j). Pub. L. 100–387 temporarily added subsec. (j). See Effective and Termination Dates of 1988 Amendment note.

1987—Subsec. (b)(A)(i). Pub. L. 100–203, § 1108(1), substituted ''300 million bushels'' for ''17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary''.

Subsec. (b)(A)(ii). Pub. L. 100–203, § 1108(2), substituted ''450 million bushels'' for ''7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary''.

1985—Subsec. (a). Pub. L. 99–198 in first sentence substituted ''abudnant supply, extend'' for ''abundant supply and extend'' and inserted '', and provide for adequate, but not excessive, carryover stocks to ensure a reliable supply of the commodities'' after ''for their orderly marketing''.

Subsec. (b). Pub. L. 99–198 in third sentence substituted '', with extensions as warranted by market conditions'' for ''nor more than five years'' in cl. (1), substituted ''when the total amount of wheat or feed grains in storage under programs under this section is below the upper limits for such storage as set forth in clauses (A) and (B) of subsection (e)(2) of this section and the market price for wheat or feed grains is below'' for ''before the market price for wheat or feed grains has reached'' in cl. (4), substituted ''the higher of 140 percent of the nonrecourse loan rate for the commodity or the established price for such commodity, as determined under this subchapter'' for ''a specified level, as determined by the Secretary'' in cl. (5), and at end inserted provisions requiring Secretary to encourage participation in the programs authorized under this section by offering producers increased storage payments and loan levels, interest waivers, or such other incentives as the Secretary determines necessary to maintain total amount of storage at specified levels, whenever the total quantity of wheat and feed grains stored under this section is less than 17 and 7 percent, respectively, of the estimated total usage thereof during the then current marketing year, and the marketing price does not exceed 140 percent of the nonrecourse loan rate for the commodity, and inserted provision requiring Secretary to ensure than producers are afforded a fair and equitable opportunity to participate in each producer storage program.

Subsec. (e). Pub. L. 99–198 designated existing provisions as par. (1), inserted '', subject to the upper limits on the total quantity of wheat and feed grains that may be stored under storage programs established

under this section set out in paragraph (2)'' in second sentence, struck out third sentence which authorized the Secretary to place an upper limit of not less than seven hundred million bushels for wheat and one billion bushels for feed grains placed in the reserve, and added par. (2).

1981—Subsec. (a). Pub. L. 97–98 struck out discretionary authority of Secretary with regard to permitting producers of feed grains to store wheat and feed grains.

Subsec. (b). Pub. L. 97–98 substituted ''Secretary shall provide'' for ''Secretary may provide'', struck out ''at the same level of support as provided by this Act'' after ''loans for wheat and feed grains'', and substituted provisions that loans be made at such levels of support as Secretary determines appropriate, except that the loan rate not be less than the then current level of support under the wheat and feed grains programs established under this subchapter for provisions relating to the level of price support loans to be made available to producers for the 1980 and 1981 crops of wheat and feed grains necessary to mitigate the adverse effects of the restrictions on the export of agricultural products to the Union of Soviet Socialist Republics and providing that the level of price support loans for the 1980 and 1981 crops of wheat and feed grains not be used in determining the levels at which producers repay loans and redeem commodities prior to the maturity dates of the loans or levels at which Secretary may call for the repayment of loans prior to their maturity dates and ''program may provide'' for ''program shall provide''.

Subsec. (b)(2). Pub. L. 97–98 substituted ''for storage in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program'' for ''of such amounts as the Secretary determines appropriate to cover the cost of storing wheat and feed grains held under the program''.

Subsec. (b)(3). Pub. L. 97–98 substituted ''as determined under subsection (c) of this section'' for ''determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest''.

Pub. L. 97–24 struck out '', and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains'' after ''a rate of interest determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest''.

Subsec. (b)(4). Pub. L. 97–98 substituted ''if such loans'' for ''in the event such loans'' and ''determined under clause (5) of this sentence'' for ''specified in clause (5) of this subsection''.

Subsec. (b)(6). Pub. L. 97–98 struck out cl. (6) which authorized the program to contain conditions prescribed by Secretary under which Secretary may require producers to repay such loans, plus accrued interest thereon, refund amounts paid for storage, and pay such additional interest and other charges as may be required by regulation, whenever Secretary determines that the market price for the commodity is not less than such appropriate level, as determined by Secretary.

Subsec. (c). Pub. L. 97–98 substituted provision prescribing rate of interest charged to participants in the program authorized by this section for provision authorizing payments to producers of the 1979 crops of corn and wheat who did not comply with the 1979 program requirements.

Subsec. (d). Pub. L. 97–98 added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (e). Pub. L. 97–98 redesignated former subsec. (d) as (e) and substituted provision authorizing Secretary to place an upper limit on the amount of wheat and feed grains placed in the reserve, with such upper limit not less than seven hundred million bushels for wheat and one billion bushels for feed grains, for provision authorizing the maximum amount of wheat stored as not less than three hundred million bushels nor more than seven hundred million bushels, with authority for Secretary to adjust this amount as necessary to meet commitments by the United States pursuant to international agreements. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97–98 redesignated former subsec. (e) as (f) and substituted in provision preceding par. (1) ''the program authorized'' for ''the extended loan program authorized'', ''110 per centum'' for ''105 per centum'', ''Secretary may encourage repayment'' for ''Secretary may call for repayment'', and ''clause (5) of the third sentence of subsection (b) of this section. The foregoing restriction'' for ''clause (6) of the second sentence of subsection (b) of this section: *Provided*, That such restriction'' and in provision following par. (3) ''clause (5) of the third sentence'' for ''clause (5) of the second sentence''. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 97–98 redesignated former subsec. (f) as (g) and substituted ''by the producer's or warehouseman's commitment'' for ''by his commitment''. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 97–98 redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 97–98 redesignated former subsec. (h) as (i) and substituted ''To the maximum extent'' for ''In addition, to the maximum extent''.

1980—Subsec. (b). Pub. L. 96–494, § 203(a)(1), inserted two provisos in provisions permitting Secretary to provide original or extended price support loans for wheat and feed grains at the same level of support as provided by this Act, in carrying out the producer storage program, under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time to promote orderly marketing when wheat or feed grains are in abundant supply.

Subsec. (b)(3). Pub. L. 96–494, § 203(a)(2), inserted provisions requiring Secretary to waive interest on loans made on the 1980 and 1981 crops of wheat and feed grains.

Subsec. (b)(5). Pub. L. 96–494, § 204, substituted ''for the commodity has attained a specified level'' for ''of wheat has attained a specified level which is not less than 140 per centum nor more than 160 per centum of the then current level of price support for wheat or such appropriate level for feed grains''.

Subsec. (b)(6). Pub. L. 96–494, § 204, substituted ''such appropriate level, as determined by the Secretary'' for ''175 per centum of the then current level of the price support for wheat or such appropriate level for feed grains as determined by the Secretary under this Act''.

Subsecs. (c), (d). Pub. L. 96–234, § 1, added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (e). Pub. L. 96–494, § 205(1), (2), substituted ''except as otherwise provided under section 1736f–1 of this title and section 4001 of this title, whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 105 per centum of the then current level at which the Secretary may call for repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (6) of the second sentence of subsection (b) of this section'' for ''whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 150 percentum of the then current level of price support for such commodity''.

Pub. L. 96–234, § 1(1), (2), redesignated former subsec. (d) as (e) and added cl. (3). Former subsec. (e) redesignated (f).

Subsec. (e)(3). Pub. L. 96–494, § 205(3), in provisions preceding subpar. (A), substituted ''sales of corn'' for ''sales of corn when sold at not less than the release level under the extended loan program'', and inserted ''when sold at not less than the price at which producers may repay producer storage loans and redeem corn prior to the maturity dates of loans, as determined

under clause (5) of the second sentence of subsection (b) of this section, or, whenever the fuel conversion price (as defined in section 4005 of this title) for corn exceeds such price, at not less than the fuel conversion price''.

Subsecs. (f) to (h). Pub. L. 96–234, § 1(1), redesignated former subsecs. (e) to (g) as (f) to (h), respectively.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1123 of Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 303(b) of Pub. L. 100–387 provided that the amendment made by that section is effective only for 1988 marketing year for wheat and feed grains.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1012(a) of Pub. L. 99–198 provided that, except as provided in section 1012(b) of Pub. L. 99–198 [set out below], the amendments by section 1012(a) are effective beginning with 1986 crops.

Section 1012(b) of Pub. L. 99–198 provided that: ''The amendment made by subsection (a)(2)(B) of this section [amending this section] shall take effect with respect to any loan made under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) the date for repayment of which occurs after the date of enactment of this Act [Dec. 23, 1985].''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 1001 of Pub. L. 97–98 provided that the amendment made by that section is effective beginning with 1982 crops.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 203(b) of Pub. L. 96–494 provided that: ''Subsection (a) of this section [amending this section] shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity as computed under the Agricultural Act of 1949, as [see Short Title note set out under section 1421 of this title] amended prior to the enactment of this Act [see Short Title note set out under section 4001 of this title], may elect after September 30, 1980, to receive loans as authorized under subsection (a) of this section.''

Amendment by sections 204 and 205 of Pub. L. 96–494 effective Dec. 3, 1980, see section 213 of Pub. L. 96–494, set out as an Effective Date note under section 4001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(E) of this title.

COMPARABILITY OF STORAGE PAYMENTS

Section 1124 of Pub. L. 101–624, as amended by Pub. L. 102–237, title I, § 114(a)(1), Dec. 13, 1991, 105 Stat. 1838, provided that: ''In making storage payments to producers under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) and to commercial warehousemen in accordance with the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Commodity Credit Corporation and the Secretary of Agriculture shall, to the extent practicable, ensure that the rates of the storage payments made to producers are equivalent to average rates paid for commercial storage, taking into account the current demand for storage for commodities, efficiency, location, regulatory compliance costs, bonding requirements, and impact of user fees as determined by the Secretary, except that the rates paid to producers and commercial warehousemen shall be established at rates that will result in no increase in current or projected combined outlays of the Commodity Credit Corporation for the storage payments made to producers and commercial warehousemen as a result of the adjustment of storage rates under this section.''

REPAYMENT OF LOANS WITHOUT PENALTY

Section 303(a) of Pub. L. 100–387 provided that: ''Effective for the 1988 marketing year for wheat or feed grains, once the market price described in clause (5) of the third sentence of subsection (b) of section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) has been reached at any time during such marketing year with respect to such commodity, producers may repay loans made under section 110 for such commodity during the remainder of such marketing year without the payment of a penalty, regardless of the then current market price.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308a, 1427, 1445k, 4001, 4002, 7301 of this title.

§ 1445f. International Emergency Food Reserve

The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserves shall be known as the International Emergency Food Reserve.

(Oct. 31, 1949, ch. 792, title I, § 111, as added Sept. 29, 1977, Pub. L. 95–113, title XI, § 1102, 91 Stat. 953.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445g. Production of commodities for conversion into industrial hydrocarbons; terms and conditions; incentive payments; regulations; appropriations; effective date

Notwithstanding any other provision of this Act—

(a) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage set aside or diverted from the production of a commodity for any crop year under this subchapter to be devoted to the production of any commodity (other than the commodities for which acreage is being set aside or diverted) for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

(b)(1) During any year in which there is no set-aside or diversion of acreage under this subchapter, the Secretary may formulate and ad-

minister a program for the production, subject to such terms and conditions as the Secretary may prescribe, of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income. Under the program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to the production of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

(2) The payments under this subsection shall be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuels.

(3) The Secretary may issue such regulations as the Secretary deems necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(5) The provisions of this subsection shall become effective October 1, 1978.

(Oct. 31, 1949, ch. 792, title I, § 112, as added May 15, 1978, Pub. L. 95–279, title II, § 201, 92 Stat. 241.)

REFERENCES IN TEXT

This Act, referred to in provision preceding subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(F) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

§ 1445h. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(F), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 113, as added Dec. 3, 1980, Pub. L. 96–494, title II, § 207, 94 Stat. 2572; amended Dec. 22, 1981, Pub. L. 97–98, title XI, § 1105, 95 Stat. 1264; Dec. 23, 1985, Pub. L. 99–198, title X, § 1011, 99 Stat. 1454; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1125, 104 Stat. 3506, authorized Secretary to announce and provide for supplemental set-aside and acreage limitation program.

§ 1445i. Multiyear set-aside contracts for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice

Notwithstanding any other provision of law:

(1) The Secretary of Agriculture may enter into multiyear set-aside contracts for a period not to extend beyond the 1990 crops. Such contracts may be entered into only as a part of the programs in effect for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, and only producers participating in one or more of such programs shall be eligible to contract with the Secretary under this section. Producers agreeing to a multiyear set-aside agreement shall be required to devote the set-aside acreage to vegetative cover capable of maintaining itself through such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited, except in areas of a major disaster, as determined by the President, if the Secretary finds there is a need for such grazing as a result of such disaster. Producers entering into agreements under this section shall also agree to comply with all applicable State and local laws and regulations governing noxious weed control.

(2) The Secretary shall provide cost-sharing incentives to farm operators for the establishment of vegetative cover, whenever a multiyear set-aside contract is entered into under this section.

(3) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Pub. L. 99–198, title X, § 1010, Dec. 23, 1985, 99 Stat. 1454.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1445j. Deficiency and land diversion payments

(a) Deficiency payments

(1) In general

If the Secretary establishes an acreage limitation program for any of the 1991 through 1997 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for the commodity for the crop, the Secretary shall make advance deficiency payments available to producers for each of the crops.

(2) Terms and conditions

Advance deficiency payments under paragraph (1) shall be made to the producer under the following terms and conditions:

(A) Form

Such payments may be made available in the form of—

(i) cash;

(ii) commodities owned by the Commodity Credit Corporation and certificates redeemable in a commodity owned by the Commodity Credit Corporation, except that not more than 50 percent of the payments may be made in commodities or the certificates in the case of any producer; or

(iii) any combination of clauses (i) and (ii).

(B) Commodities and certificates

If payments are made available to producers as provided for under subparagraph (A)(ii), such producers may elect to receive such payments either in the form of—

(i) such commodities; or

(ii) such certificates.

(C) Maturity

Such a certificate shall be redeemable for a period not to exceed 3 years from the date the certificate is issued.

(D) Storage

The Commodity Credit Corporation shall pay the cost of storing a commodity that may be received under such a certificate until such time as the certificate is redeemed.

(E) Timing

The payments shall be made available as soon as practicable after the producer enters into a contract with the Secretary to participate in such program.

(F) Amounts

The payments shall be made available in such amounts as the Secretary determines appropriate to encourage adequate participation in the program, except that the amount may not exceed an amount determined by multiplying—

(i) the estimated payment acreage for the crop; by

(ii) the farm program payment yield for the crop; by

(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,

as determined by the Secretary.

(G) Repayment

If the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an advance deficiency payment for the crop under this subsection, the producer shall repay an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop concerned.

(H) Repayment requirement

If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this subsection, the producers who received the advance payments shall repay the payments.

(I) Deadline

Any repayment required under subparagraph (G) or (H) shall be due at the end of the marketing year for the crop with respect to which the payments were made.

(J) Noncompliance

If a producer fails to comply with requirements established under the acreage limitation program involved after obtaining an advance deficiency payment under this subsection, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulation.

(3) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(5) Additional authority

The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(b), (c) Repealed. Pub. L. 104–127, title I, § 171(b)(2)(G), Apr. 4, 1996, 110 Stat. 938

(Oct. 31, 1949, ch. 792, title I, § 114, formerly § 107C, as added Sept. 8, 1982, Pub. L. 97–253, title I, § 120, 96 Stat. 766; amended Dec. 23, 1985, Pub. L. 99–198, title X, § 1002, 99 Stat. 1446; Dec. 22, 1987, Pub. L. 100–203, title I, § 1110, 101 Stat. 1330–6; Dec. 19, 1989, Pub. L. 101–239, title I, § 1003(b)(1), 103 Stat. 2108; Nov. 5, 1990, Pub. L. 101–508, title I, § 1102(d), 104 Stat. 1388–2; renumbered § 114 and amended Nov. 28, 1990, Pub. L. 101–624, title XI, §§ 1121(a), (c), 1161(a)(1), 104 Stat. 3500, 3503, 3520; Dec. 13, 1991, Pub. L. 102–237, title I, § 109, 105 Stat. 1828; Aug. 10, 1993, Pub. L. 103–66, title I, § 1101(b)(1), 107 Stat. 314; Apr. 4, 1996, Pub. L. 104–127, title I, § 171(b)(2)(G), 110 Stat. 938.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2)(G), (H), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was classified to section 1445b–2 of this title prior to its renumbering by Pub. L. 101–624.

AMENDMENTS

1996—Subsecs. (b), (c). Pub. L. 104–127 struck out subsecs. (b) and (c) which, in subsec. (b), related to land diversion payments to assist in adjusting total national acreage of any of 1991 through 1995 crops of wheat, feed grains, upland cotton, or rice to desirable levels, and, in subsec. (c), related to timing of deficiency payments made available to producers for any of 1991 through 1997 crops of wheat and feed grains.

1993—Subsecs. (a)(1), (c). Pub. L. 103–66 substituted ''1997'' for ''1995''.

1991—Subsec. (c). Pub. L. 102–237, § 109(1), substituted ''section'' for ''sections'' in introductory provisions.

Subsec. (c)(2). Pub. L. 102–237, § 109(3), added par. (2) and struck out former par. (2) which read as follows:

''Seventy-five percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.''

Subsec. (c)(3), (4). Pub. L. 102–237, § 109(2), (3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101–624, § 1121(a), amended section generally, substituting provisions relating to deficiency and land diversion payments for the 1991 through 1995 crops of wheat, feed grains, upland cotton, and rice for provisions relating to advance deficiency and diversion payments for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

Pub. L. 101–624, § 1121(c), amended Pub. L. 99–198. See 1985 Amendment note below.

Subsec. (c). Pub. L. 101–508 substituted ''wheat and feed grains which payments are calculated as provided in sections 1445b–3a(c)(1)(B)(ii), 1445b–3a(p), or 1444f(c)(1)(B)(ii) of this title'' for ''wheat, feed grains, and rice which payments are calculated on the basis of the national weighted average market price (or, in the case of rice, the national average market price) for the marketing year for the crop''.

1989—Subsec. (a)(2)(G). Pub. L. 101–239 temporarily inserted ''(taking into consideration any reduction in the payment made under section 1433d of this title)'' and substituted ''amount finally'' for ''amount finallly''. See Effective and Termination Dates of 1989 Amendment note below.

1987—Subsec. (a)(1). Pub. L. 100–203, § 1110(1), temporarily added par. (1) and struck out former par. (1) which read as follows: ''If the Secretary establishes an acreage limitation or set-aside program for any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

''(A) shall make advance deficiency payments available to producres [sic] who agree to participate in such program for the 1986 crop; and

''(B) may make such payments available to such producers for each of the 1987 through 1990 crops.''

See Effective and Termination Dates of 1987 Amendment note below.

Subsec. (a)(2)(F)(iii). Pub. L. 100–203, § 1110(2), temporarily added cl. (iii) and struck out former cl. (iii) which read as follows: ''50 percent of the projected payment rate,''. See Effective and Termination Dates of 1987 Amendment note below.

1985—Pub. L. 99–198, as amended by Pub. L. 101–624, § 1121(c), amended section generally, substituting provisions relating to advance deficiency and diversion payments for the 1986 through 1990 crops of wheat, feed grains, upland cotton and rice for provisions relating to advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton and rice.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1003(b)(1) of Pub. L. 101–239 provided that the amendment made by that section is effective only for 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1110 of Pub. L. 100–203 provided that the amendment made by that section is effective only for 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

That portion of section 1002 of Pub. L. 99–198 which provided that the amendment made by that section was effective only for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, was struck out by section 1121(c) of Pub. L. 101–624.

EFFECTIVE AND TERMINATION DATES

Section 120 of Pub. L. 97–253 provided that this section is effective only for 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice.

CALCULATION OF REFUNDS OF ADVANCE ESTABLISHED PRICE PAYMENTS BY PRODUCERS OF 1988 OR 1989 CROPS OF FEED BARLEY

Section 405 of Pub. L. 101–624 provided that:

''(a) MANDATORY CALCULATION OF REFUND.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall calculate, for informational purposes only (except as provided in the discretionary authority under subsection (b)), the amount of the refund of any advance deficiency payment a producer of barley who participated in the 1988 or 1989 Federal barley price support program would be required to make pursuant to section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b–2) (as it existed immediately before the date of enactment of this Act) based on a formula which excludes malting barley from the market price calculations of barley used to determine the amount of refund of the advance deficiency payment required of the producer.

''(2) DISCLOSURE.—

''(A) TO THE PUBLIC.—The Secretary shall publish in the Federal Register—

''(i) the formula used to perform the calculations described in paragraph (1);

''(ii) the aggregate results that the use of the calculation would have pursuant to subsection (b), in terms of—

''(I) the total reduction in the amount of refunds;

''(II) the number of producers affected; and

''(III) any other information the Secretary determines appropriate;

''(iii) a declaration of the Secretary's decision whether to use the calculation to recalculate barley producer's refunds pursuant to subsection (b); and

''(iv) a statement of the Secretary's reasons for the decision described in clause (iii).

''(B) TO PRODUCERS.—The Secretary shall make available to each producer of 1988 or 1989 crop barley, on request, a statement detailing the effect of the calculation of refunds described in paragraph (1) on the producer's 1988 or 1989 refund.

''(b) DISCRETIONARY USE OF CALCULATION.—

''(1) IN GENERAL.—The Secretary may use the calculation described in subsection (a) to determine whether or not to reduce the total refund owed by a producer of 1988 or 1989 crop barley under section 107C of the Agricultural Act of 1949 [7 U.S.C. 1445b–2] (as it existed immediately before the date of enactment of this Act [Nov. 28, 1990]).

''(2) PROCEDURE FOR USE OF CALCULATION.—If the Secretary decides to use the calculation described in subsection (a) as provided under paragraph (1), in the case of a producer of 1988 or 1989 crop barley who paid the refund of the advance deficiency payment for the crop calculated prior to the date of enactment of this Act (or any amount of refund in excess of the amount of the refund determined in accordance with paragraph (1)), the Secretary—

''(i) shall, before May 31, 1991, reimburse the producer the amount of refund paid by the producer in excess of the refund determined in accordance with this section;

''(ii) shall have the option to make the reimbursement in a lump sum or in installments;

''(iii) shall, not later than 90 days after the date of enactment of this Act, notify producers who are eligible to receive the reimbursement of their 1988 or 1989 advance deficiency payment refund under this section—

''(I) of the timing of the payment of the reimbursement (either in lump sum or in installments);

''(II) that the amount of the reimbursement shall not bear interest if paid before February 15, 1991; and

''(III) that the amount of the reimbursement paid after February 15, 1991, shall bear interest at a rate of at least 7 percent per annum; and

''(iv) may elect to pay the reimbursement in a lump sum with generic certificates redeemable for commodities owned by the Commodity Credit Corporation if the reimbursement is paid in full not later than 60 days after the date of enactment of this Act.''

REPAYMENT REQUIREMENTS

Section 1121(b) of Pub. L. 101–624 provided that:

''(1) IN GENERAL.—Notwithstanding any other provision of law, effective only for producers who are suffering financial hardship, as determined by the Secretary, on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

''(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of prevailing rates for operating loans made by Farm Credit System institutions;

''(B) shall not withhold, in each of the 3 succeeding crop years, more than ⅓ of the farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

''(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop insurance for each of the crop years, to the extent that the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.) [§ 107 of Pub. L. 101–82, 7 U.S.C. 1421 note].

''(2) APPLICATION.—This subparagraph shall apply if—

''(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b–2(a));

''(B) the producers are required to provide a refund of at least $1,500 under subparagraph (G) or (H) of section 107C(a)(2) of such Act with respect to the advance deficiency payments;

''(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at least 30 percent during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

''(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop.''

ADVANCE DEFICIENCY PAYMENTS

Pub. L. 99–509, title I, § 1021, Oct. 21, 1986, 100 Stat. 1877, required Secretary of Agriculture to make advance deficiency payments available for 1987 crops of wheat, feed grains, upland cotton, and rice, and provided that percentage of projected payment rate used in computing such payments shall not be less than (1) 40 percent in the case of wheat and feed grains, and (2) 30 percent in the case of rice and upland cotton.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7213, 7214, 7301 of this title.

§ 1445k. Payments in commodities

(a) In-kind payments by Secretary

In making in-kind payments under any of the annual programs for wheat, feed grains, upland cotton, or rice (other than negotiable marketing certificates for upland cotton or rice), the Secretary may—

(1) acquire and use like commodities that have been pledged to the Commodity Credit Corporation as security for price support loans, including loans made to producers under section 1445e of this title; and

(2) use other like commodities owned by the Commodity Credit Corporation.

(b) Methods of payments

The Secretary may make in-kind payments—

(1) by delivery of the commodity to the producer at a warehouse or other similar facility, as determined by the Secretary;

(2) by the transfer of negotiable warehouse receipts;

(3) by the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for a commodity in accordance with regulations prescribed by the Secretary; or

(4) by such other methods as the Secretary determines appropriate to enable the producer to receive payments in an efficient, equitable, and expeditious manner so as to ensure that the producer receives the same total return as if the payments had been made in cash.

(c) Commodity certificates

The Secretary shall pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days. This subsection shall not apply with respect to commodity certificates issued in connection with the export enhancement program or the marketing promotion program established under the Agricultural Trade Act of 1978.

(Oct. 31, 1949, ch. 792, title I, § 115, formerly § 107E, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1005, 99 Stat. 1448; renumbered § 115 and amended Nov. 28, 1990, Pub. L. 101–624, title XI, §§ 1122(a), 1161(a)(1), 104 Stat. 3503, 3520.)

REFERENCES IN TEXT

The Agricultural Trade Act of 1978, referred to in subsec. (c), is Pub. L. 95–501, Oct. 21, 1978, 92 Stat. 1685, as amended generally by Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3668, which is classified generally to chapter 87 (§ 5601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of this title and Tables.

CODIFICATION

Section was classified to section 1445b–4 of this title prior to its renumbering by Pub. L. 101–624.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–624, § 1122(a), added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(G) of this title.

REDEMPTION OF COMMODITY CERTIFICATES

Section 1122(b) of Pub. L. 101–624 provided that:

''(1) IN GENERAL.—A subsequent holder of a commodity certificate issued by the Commodity Credit Corporation shall be allowed to exchange the expired commodity certificate under the same rules that apply to an original holder of the certificate.

''(2) APPLICATION AND REDEMPTION LIMITATIONS.—This subsection shall only apply during the 180-day period beginning on the date of enactment of this Act [Nov. 28, 1990]. No person may redeem more than $1,000 worth of certificates under this subsection.

''(3) REDEMPTION LIMITATIONS.—In no event shall a person receive a payment from the Commodity Credit Corporation for a certificate that is redeemed under this subsection in an amount greater than the price paid for the certificate by the person. No expired certificate shall be exchanged under this section if the owner purchased the certificate after January 1, 1990.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

§ 1446. Price support levels for designated nonbasic agricultural commodities

(a) The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447 to 1449 of this title) price support to producers for oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine), sunflower seeds, honey, milk, sugar beets, and sugarcane in accordance with this subchapter.

(b) The price of honey shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof; and the price of tung nuts for each crop of tung nuts through the 1976 crop shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price therefor: *Provided*, That in any crop year through the 1976 crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 per centum of the parity price therefor.

(c) Except as provided in section 1446e[1] of this title, the price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Such price support shall be provided through the purchase of milk and the products of milk.

(d) Notwithstanding any other provision of law—

(1)(A) During the period beginning on January 1, 1986, and ending on December 31, 1990, the price of milk shall be supported as provided in this subsection.

(B) During the period beginning on January 1, 1986, and ending on December 31, 1986, the price of milk shall be supported at a rate equal to $11.60 per hundredweight for milk containing 3.67 percent milkfat.

(C)(i) During the period beginning on January 1, 1987, and ending on September 30, 1987, the price of milk shall be supported at a rate equal to $11.35 per hundredweight for milk containing 3.67 percent milkfat.

(ii) Except as provided in subparagraph (D), during the period beginning on October 1, 1987, and ending on December 31, 1990, the price of milk shall be supported at a rate equal to $11.10 per hundredweight for milk containing 3.67 percent milkfat.

(D)(i) Subject to clause (ii), if for each of the calendar years 1988 and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will exceed 5,000,000,000 pounds (milk equivalent), on January 1 of such calendar year, the Secretary shall reduce by 50 cents the rate of price support for milk as in effect on such date.

(ii) The rate of price support for milk may not be reduced under clause (i) unless—

(I) the milk production termination program under paragraph (3) achieved a reduction in the production of milk by participants in the program of at least 12,000,000,000 pounds during the 18 months of the program; or

(II) the Secretary submits to Congress a certification, including a statement of facts in support of the certification of the Secretary, that reasonable contract offers were extended by the Secretary under such program but such offers were not accepted by a sufficient number of producers making reasonable bids for contracts to achieve such a reduction in production.

(E) If for any of the calendar years 1988, 1989, and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will not exceed 2,500,000,000 pounds (milk equivalent), the Secretary shall increase by 50 cents the rate of price support for milk in effect on such date.

(F) The price of milk shall be supported through the purchase of milk and the products of milk.

[1] See References in Text note below.

(2)(A) Beginning after March 31, 1986, the Secretary shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

(B) Except as provided in subparagraphs (E) and (F), the amount of the reduction under subparagraph (A) in the price received by producers shall be—

(i) the period beginning on April 1, 1986, and ending on December 31, 1986, 40 cents per hundredweight of milk marketed; and

(ii) during the first 9 months of 1987, 25 cents per hundredweight of milk marketed.

(C) The funds represented by the reduction in price, required under this paragraph to be applied to the marketings of milk by a producer, shall be collected and remitted to the Commodity Credit Corporation, at such time and in such manner as prescribed by the Secretary, by each person making payment to a producer for milk purchased from such producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted directly to the Corporation by such producer.

(D) The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(E)(i) In lieu of any reductions in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, required under the order issued by the President on February 1, 1986, under section 252[1] of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) [2 U.S.C. 902], the Secretary shall increase the amount of the reduction required under subparagraph (A) during the period beginning April 1, 1986, and ending September 30, 1986, as the sole means of meeting any reductions required under the order in payments made by the Secretary for the purchase of milk and the products of milk under this subsection.

(ii) The aggregate amount of any increased reduction under clause (i) shall be equal, to the extent practicable, to the aggregate amount of the reduction that would otherwise be required under the order referred to in clause (i) in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, except that the amount of any increased reduction under clause (i) may not exceed 12 cents per hundredweight of milk marketed.

(F)(i) The Secretary—

(I) notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 and any order issued by the President under section 252[1] of such Act [2 U.S.C. 902] for a fiscal year; and

(II) in lieu of making any reduction in payments for the purchase of milk or the products of milk under this subsection during such fiscal year under any such order;

shall provide for the reduction (measured in cents per hundredweight of milk marketed) under subparagraph (A) during the period beginning on October 1 and ending on September 30 of such fiscal year as the sole means of achieving any reduction in budget outlays under the milk price-support program that otherwise would be required under either such order and only for the purpose of substituting for any reduction in payments made by the Secretary for the purchase of milk or the products of milk under either such order.

(ii) The aggregate amount of any reduction under subparagraph (A) resulting from the operation of clause (i) may not exceed the aggregate amount of the reduction in budget outlays under the milk price-support program, as estimated by the Secretary, that otherwise would have been achieved under either such order by reducing payments made by the Secretary for the purchase of milk or the products of milk under this subsection during such fiscal year.

(F)[2] During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

(3)(A)(i) The Secretary shall establish and carry out under this paragraph a milk production termination program for the 18-month period beginning April 1, 1986.

(ii) Under the milk production termination program required under this subparagraph, the Secretary, at the request of any producer of milk in the United States who submits to the Secretary a bid, may offer to enter into a contract with the producer for the purpose of terminating the production of milk by the producer in return for a payment to be made by the Secretary.

(iii) For the 18-month period for which the milk production termination program under this subparagraph is in effect, the Secretary shall—

(I) as soon as practicable, determine the total number of dairy cattle the Secretary estimates will be marketed for slaughter as a result of such program; and

(II) by regulation specify marketing procedures to ensure that greater numbers of dairy cattle slaughtered as a result of the production termination program provided for in this section shall be slaughtered in each of the periods of April through August 1986, and March through August 1987 than for the other months of the program. Such procedures also shall ensure that such sales of dairy cattle for slaughter shall occur on a basis estimated by the Secretary that maintains historical seasonal marketing patterns. During such 18-month period, the Secretary shall limit the total number of dairy

[2] So in original. Probably should be "(G)".

cattle marketed for slaughter under the program in excess of the historical dairy herd culling rate to no more than 7 percent of the national dairy herd per calendar year.

(iv) Each contract made under this subparagraph shall provide that—

(I) the producer shall sell for slaughter or for export all the dairy cattle in which such producer owns an interest;

(II) during a period of 3, 4, or 5 years, as specified by the Secretary in each producer contract and beginning on the day the producer completes compliance with subclause (I), the producer neither shall acquire any interest in dairy cattle or in the production of milk nor acquire, or make available to any person, any milk production capacity of a facility that becomes available because of compliance by a producer with such subclause unless the Secretary shall by regulation otherwise permit; and

(III) if the producer fails to comply with such contract, the producer shall repay to the Secretary the entire payment received under the contract, including simple interest payable at a rate prescribed by the Secretary, which shall, to the extent practicable, reflect the cost to the Corporation of its borrowings from the Treasury of the United States, commencing on the date payment is first received under such contract.

(v) Any producer of milk who seeks to enter into a contract for payments under this paragraph shall provide the Secretary with (I) evidence of such producer's marketing history; (II) the size and composition of the producer's dairy herd during the period the marketing history is determined; and (III) the size and composition of the producer's dairy herd at the time the bid is submitted, as the Secretary deems necessary and appropriate.

(vi) Except as provided in subparagraph (D), no producer who commenced marketing of milk in the 15-month period ending March 31, 1986, shall be eligible to enter into a contract for payments under this subparagraph.

(vii) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned by the estate of such producer.

(B) The Secretary may establish and carry out a milk diversion or milk production termination program for any of the calendar years 1988, 1989, and 1990 as necessary to avoid the creation of burdensome excess supplies of milk or milk products.

(C) In setting the terms and conditions of any milk diversion or milk production termination under this paragraph and of each contract made under this subparagraph, the Secretary shall take into account any adverse effect of such program or contracts on beef, pork, and poultry producers in the United States and shall take all feasible steps to minimize such effect.

(D) A producer who commenced marketing milk after December 31, 1984, shall be eligible to enter into a contract for payments under this subparagraph if such producer's entire milk production facility and entire dairy herd were transferred to the producer by reason of a gift from, or the death of, a member or members of the family of the producer. The term ''member of the family of the producer'' means (i) an ancestor of the producer, (ii) the spouse of the producer, (iii) a lineal descendant of the producer, or the producer's spouse, or a parent of the producer, or (iv) the spouse of any such lineal descendant.

(E) Application for payment shall be made by producers through the county committees established under section 590h(b) of title 16.

(F) to (J) Repealed. Pub. L. 99–198, title I, § 101(b)(1), (2), Dec. 23, 1985, 99 Stat. 1363, 1365.

(K) Redesignated (E).

(L) Repealed. Pub. L. 99–198, title I, § 101(b)(2), Dec. 23, 1985, 99 Stat. 1365.

(M) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned, in accordance with subparagraph (L), by the estate of such producer.

(N) If the provisions for reductions in the price received for milk marketed for commercial use as provided for in paragraph (2) are held to be invalid by any court, or the Secretary is restrained or enjoined by any court from implementing such provisions, the Secretary shall immediately suspend making any diversion payments under this paragraph for the period beginning with the date of such court action and shall resume making such payments only if such court action is overruled, stayed, or terminated.

(4) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony on the matter under investigation. Any failure to obey such order of the

court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(5)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. The Secretary is not required, however, to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

(B)(i) Each person as to whom there is a failure to make a reduction in the price of milk received by such person as required by paragraph (2) or who fails to remit to the Corporation the funds required to be collected and remitted by paragraph (2)(B) shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk as to which the failure applies. The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned. Each person who knowingly violates any other provision of this subsection, or any regulation issued under this subsection, shall be liable for a civil penalty of not more than $1,000 for each such violation. Any penalty provided for under this subparagraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(ii) Each person who buys, from a producer with respect to whom there is in effect at the time of such sale a contract entered into under paragraph (3), one or more dairy cattle sold for slaughter or export, who knows that such cattle are sold for slaughter or export, and who fails to cause the slaughter or export of such cattle within a reasonable time after receiving such cattle shall be liable for a civil penalty of not more than $5,000 with respect to each of such cattle.

(iii) Each person who retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this paragraph shall be liable, in addition to any amount due under paragraph (3)(A)(iv), to a marketing penalty on the quantity of milk produced during the period in which such ownership is prohibited under the contract. Such penalty shall be computed at the rate or rates of the support price for milk in effect during the period in which the milk production occurred.

(iv) Each person who makes a false statement in a bid submitted under paragraph (3) as to (I) the marketings of milk for commercial use by the producer, or (II) the size or composition of the dairy herd that produced such marketings, or (III) the size or composition of the dairy herd at the time the bid is submitted shall be subject, in addition to any amount due under paragraph (3)(A)(iv) or clause (iii) of this subparagraph, to a civil penalty of $5,000 for each head of cattle to which such statement applied.

(v) Each person who makes a false statement as to the number of dairy cattle that was sold for slaughter or export under a contract under paragraph (3)(A) shall be subject, in addition to any amount due under paragraph (3)(A)(iv) or clause (iii) of this subparagraph, to a civil penalty of not more than $5,000 for each head of cattle to which such statement applied.

(C) Any person against whom a penalty is assessed under subparagraph (B) may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than thirty days after such penalty is imposed. The Secretary shall promptly file in such court a certified copy of the record upon which the penalty is based. The findings of the Secretary may be set aside only if found to be unsupported by substantial evidence.

(D) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under subparagraph (B).

(E) The remedies provided in this paragraph shall be in addition to, and not exclusive of, other remedies that may be available.

(F) In carrying out this subsection, the Secretary may, as the Secretary deems appropriate—

(i) use the services of State and county committees established under section 590h(b) of title 16; and

(ii) enter into agreements to use, on a reimbursable or nonreimbursable basis, the services of administrators of Federal milk marketing orders and State milk marketing programs.

(6) The term ''United States'' as used in paragraphs (2) and (3) of this subsection means the forty-eight contiguous States in the continental United States.

(7) The Secretary shall carry out this subsection through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title II, § 201, 63 Stat. 1052; Aug. 28, 1954, ch. 1041, title II, §§ 203(a), 204(b), title VII, § 709, 68 Stat. 899, 912; Apr. 2, 1956, ch. 159, § 1, 70 Stat. 86; July 20, 1956, ch. 661, 70 Stat. 596; Aug. 28, 1958, Pub. L. 85–835, title V, § 503, 72 Stat. 996; Sept. 16, 1960, Pub. L. 86–799, 74 Stat. 1054; Nov. 30, 1970, Pub. L. 91–524, title II, § 202, 84 Stat. 1361; Aug. 10, 1973, Pub. L. 93–86, § 1(3), 87 Stat. 222; Dec. 29, 1973, Pub. L. 93–225, 87 Stat. 942; Sept. 29, 1977, Pub. L. 95–113, title II, § 203, title IX, §§ 901, 902, 91 Stat. 920, 949; Nov. 28, 1979, Pub. L. 96–127, § 1, 93 Stat. 981; Dec. 3, 1980, Pub. L. 96–494, title II, § 202(c), 94 Stat. 2570; Mar. 31, 1981, Pub. L. 97–6, 95 Stat. 8; Aug. 13, 1981, Pub. L. 97–35, title I, § 150, 95 Stat. 369; Dec. 22, 1981, Pub. L. 97–98, title I, § 103, title VIII, § 801, title IX, § 901, 95 Stat. 1219, 1256, 1257; Sept. 8, 1982, Pub. L. 97–253, title I, § 101, 96 Stat. 763; Nov. 29,

1983, Pub. L. 98–180, title I, § 102(a), 97 Stat. 1128; Oct. 1, 1985, Pub. L. 99–114, § 1, 99 Stat. 488; Nov. 15, 1985, Pub. L. 99–157, § 1, 99 Stat. 818; Dec. 13, 1985, Pub. L. 99–182, § 1, 99 Stat. 1173; Dec. 23, 1985, Pub. L. 99–198, title I, § 101(a)–(e), title VIII, § 801, title IX, § 901, title X, §§ 1008, 1041, 99 Stat. 1362–1365, 1441, 1443, 1452, 1464; Mar. 20, 1986, Pub. L. 99–260, § 10, 100 Stat. 52; May 27, 1987, Pub. L. 100–45, § 15(a), 101 Stat. 325; Dec. 22, 1987, Pub. L. 100–202, § 101(k) [title VI, § 638], 101 Stat. 1329–322, 1329–357; Dec. 22, 1987, Pub. L. 100–203, title I, § 1104(c)–(e), 101 Stat. 1330–4; Aug. 11, 1988, Pub. L. 100–387, title I, § 102(a), 102 Stat. 932; Dec. 19, 1989, Pub. L. 101–239, title I, § 1007, 103 Stat. 2110; Nov. 28, 1990, Pub. L. 101–624, title VII, § 701(1), title IX, § 901(1), title XI, § 1161(b), title XXII, § 2236(a), 104 Stat. 3457, 3478, 3520, 3961; Dec. 13, 1991, Pub. L. 102–237, title I, § 113(8), 105 Stat. 1838.)

REFERENCES IN TEXT

Section 1446e of this title, referred to in subsec. (c), was repealed by Pub. L. 104–127, title I, § 141(g), Apr. 4, 1996, 110 Stat. 915.

The Agricultural Adjustment Act, as reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, referred to in subsec. (d)(2)(D), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

The order issued by the President on February 1, 1986, referred to in subsec. (d)(2)(E)(i), is set out as a note under section 902 of Title 2, The Congress.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (d)(2)(E)(i), (F)(i)(I), is classified to section 902 of Title 2, and was amended generally by Pub. L. 101–508, title XIII, § 13101(a), Nov. 5, 1990, 104 Stat. 1388–581. Provisions relating to Presidential orders are contained in section 904(g)(6) of Title 2.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (d)(2)(F)(i)(I), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§ 900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 901 of Title 2 and Tables.

AMENDMENTS

1991—Subsecs. (b), (c). Pub. L. 102–237 redesignated subsec. (b), relating to price supports for milk, as (c).

1990—Subsec. (a). Pub. L. 101–624, §§ 701(1), 901(1), 1161(b)(1), designated opening paragraph as subsec. (a) and substituted ''oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine),'' for ''tung nuts,'', ''honey, milk, sugar beets, and sugarcane'' for ''honey, and milk'', and ''in accordance with this subchapter.'' for ''as follows:''.

Subsecs. (b), (c). Pub. L. 101–624, § 1161(b)(2), (3), redesignated subsec. (c) as (b) and substituted reference to section 1446e of this title for reference to subsection (d) of this section.

Subsec. (k)(2). Pub. L. 101–624, § 2236(a), temporarily designated existing text as subpar. (A) and added subpar. (B). See Effective and Termination Dates of 1990 Amendment note below.

1989—Subsec. (d)(1)(C)(ii), (iii). Pub. L. 101–239, § 1007(1), temporarily inserted in cl. (ii) ''clause (iii) and'' after ''Except as provided in'' and added cl. (iii). See Effective and Termination Dates of 1989 Amendment note below.

Subsec. (d)(1)(D)(i). Pub. L. 101–239, § 1007(2), temporarily substituted ''calendar year 1990'' for ''each of the calendar years 1988 and 1990'' and ''may reduce by not more than'' for ''shall reduce by''. See Effective and Termination Dates of 1989 Amendment note below.

1988—Subsec. (d)(1)(D). Pub. L. 100–387 substituted ''if for each of the calendar years 1988 and 1990'' for ''if for any of the calendar years 1988, 1989, and 1990''.

1987—Pub. L. 100–45, § 15(a)(1), temporarily inserted ''sunflower seeds,'' after ''soybeans,'' in first sentence. See Effective and Termination Dates of 1987 Amendments note below.

Subsec. (b)(1)(D). Pub. L. 100–203, § 1104(c), temporarily added subpar. (D). See Effective and Termination Dates of 1987 Amendments note below.

Subsec. (d)(2)(A). Pub. L. 100–202, § 101(k) [title VI, § 638(1)], substituted ''Beginning after March 31, 1986,'' for ''During the period beginning on April 1, 1986, and ending on September 30, 1987,''.

Subsec. (d)(2)(B). Pub. L. 100–202, § 101(k) [title VI, § 638(2)], substituted ''subparagraphs (E) and (F)'' for ''subparagraph (E)''.

Subsec. (d)(2)(C). Pub. L. 100–203, § 1104(d)(1), substituted ''this paragraph'' for ''subparagraph (A)''.

Subsec. (d)(2)(F). Pub. L. 100–203, § 1104(d)(2), added subpar. (F) directing Secretary to provide for reduction of 2½ cents per hundredweight in price received by producers during calendar year 1988.

Pub. L. 100–202, § 101(k) [title VI, § 638(3)], added subpar. (F) directing Secretary to provide for reduction under subpar. (A) as the sole means of achieving any reduction in budget outlays in milk price-support system under Presidential budget-cutting orders.

Subsec. (j)(7). Pub. L. 100–203, § 1104(e), added par. (7).

Subsec. (*l*). Pub. L. 100–45, § 15(a)(2), temporarily added subsec. (*l*). See Effective and Termination Dates of 1987 Amendments note below.

1986—Subsec. (d)(2)(B). Pub. L. 99–260, § 10(1), substituted ''Except as provided in subparagraph (E), the'' for ''The''.

Subsec. (d)(2)(E). Pub. L. 99–260, § 10(2), added subpar. (E).

1985—Pub. L. 99–198, §§ 801(1), 901(1), in provisions preceding subsec. (a), temporarily reenacted without change the amendments made in 1977 by sections 901(1) and 902(1) of Pub. L. 95–113 and in 1981 by sections 801(1) and 901(1) of Pub. L. 97–98, which inserted references to soybeans, sugar beets, and sugar cane. See Effective and Termination Dates of Amendments notes for 1985, 1981, and 1977, respectively, set out below.

Subsec. (b). Pub. L. 99–198, § 1041, amended subsec. (b) generally, temporarily substituting provisions for loans, purchases and other price supports for the 1986 through 1990 crops of honey, and repayment of loans under this subsection, as well as penalties for pledging adulterated or imported honey as collateral to secure such loans, for provisions for support of the price of honey through loans, purchases or other operations, without any crop year restrictions, at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof, and struck out provisions for price support for tung nuts through the 1976 crop year. See Effective and Termination Dates of 1985 Amendments note below.

Subsec. (c). Pub. L. 99–198, § 101(d), substituted ''Except as provided in subsection (d) of this section, the price'' for ''The price''.

Subsec. (d)(1). Pub. L. 99–198, § 101(a), in amending par. (1) generally, substituted provisions adjusting milk price support levels for calendar years 1986 through 1990 by gradually reducing the price support from $11.60 per hundredweight to $11.10 per hundredweight, providing for adjustments of 50 cents per hundredweight in the support level for calendar years 1988 through 1990 depending on projected sales levels for provisions setting price support levels for calendar years 1983 through 1985 by gradually reducing the price

support from $13.10 per hundredweight to $12.60 per hundredweight, and providing for adjustments of 50 cents per hundredweight in the support level for twelve month periods beginning on April 1, 1985 and/or July 1, 1985, depending on projected sales levels.

Subsec. (d)(1)(B). Pub. L. 99–182 substituted ''December 31, 1985'' for ''December 13, 1985''.

Pub. L. 99–157 substituted ''December 13, 1985'' for ''November 15, 1985''.

Pub. L. 99–114 substituted ''November 15, 1985'' for ''September 30, 1985''.

Subsec. (d)(2). Pub. L. 99–198, §101(a), in amending par. (2) generally, substituted provisions for a reduction in the price received by producers for all milk produced in the United States and marketed for commercial use in an amount of 40 cents per hundredweight for the period between Apr. 1, 1986, and Dec. 31, 1986, and 25 cents per hundredweight during the first 9 months of 1987 for provisions for a reduction of 50 cents per hundredweight in such price effective for the period beginning with the first day of the first calendar month following Nov. 29, 1983, and ending on Mar. 31, 1985, and struck out provisions relating to the continued applicability of pars. (2) to (7) of this subsection between Nov. 29, 1983, and the last day of November, 1983, and the inapplicability of sections 4501 to 4513 of this title to prior deductions or collections under this subsection, and provisions that to the extent that funds collected under this paragraph were inadequate to make payments to producers under par. (3), such payments had to be made using otherwise available funds.

Subsec. (d)(3)(A). Pub. L. 99–198, §101(b)(1), in amending subpar. (A) generally, substituted provisions for a milk production termination program for the 18-month period beginning Apr. 1, 1986, for provisions for a milk diversion program under which Secretary had to offer to enter into a contract, at any time up to Feb. 1, 1984, with any producer of milk in the United States to reduce the quantity of commercially marketed milk during the 15-month period beginning Jan. 1, 1984.

Subsec. (d)(3)(B). Pub. L. 99–198, §101(b)(1), in amending subpar. (B) generally, substituted provisions authorizing Secretary to establish and carry out a milk diversion or milk production termination program for any of the calendar years 1988, 1989 and 1990 for provisions which had enumerated the requirements for contracts between Secretary and any domestic producer of milk to reduce the quantity of commercially marketed milk during the 15-month period beginning Jan. 1, 1984.

Subsec. (d)(3)(C). Pub. L. 99–198, §101(b)(1), in amending subpar. (C) generally, substituted provisions requiring Secretary to take into account any adverse effect of any milk diversion or milk production program or contracts on beef, pork and poultry producers in the United States and to take all feasible steps to minimize such effect for provisions requiring Secretary to pay to producers complying with such contracts an amount equal to the product of $10 per hundredweight and the amount, measured in hundredweights, by which the quantity of milk marketed by such producer for commercial use during the period specified in such contract was less than the quantity of milk marketed by such producer for commercial use during the marketing history period.

Subsec. (d)(3)(D). Pub. L. 99–198, §101(b)(1), in amending subpar. (D) generally, substituted provisions establishing eligibility of producers who have acquired their entire milk production facility and dairy herd by gift or inheritance from family member or members for provisions prohibiting payments to producers with respect to whom any reduction in the quantity of milk did not meet specified percentage guidelines.

Subsec. (d)(3)(E). Pub. L. 99–198, §101(b)(1), (3), struck out subpar. (E) which specified conditions under which Secretary could modify contracts entered into under this paragraph, and redesignated subpar. (K) as (E).

Subsec. (d)(3)(F). Pub. L. 99–198, §101(b)(1), struck out subpar. (F) which required domestic producers of milk seeking to enter into contracts for diversion payments to provide Secretary with evidence of such producer's marketing history, as defined by this subparagraph, which Secretary could adjust to take into account natural disasters or other conditions and factors where necessary.

Subsec. (d)(3)(G). Pub. L. 99–198, §101(b)(1), struck out subpar. (G) which provided that no marketing history could be assigned to any producer who commenced marketing milk after Dec. 31, 1982, except as provided in subpar. (H).

Subsec. (d)(3)(H). Pub. L. 99–198, §101(b)(2), struck out subpar. (H) which provided that a producer's marketing history could not be transferred to another person unless the producer's entire milk production facility and dairy herd were transferred by reason of the death of the producer, a gift by the producer, or to a member or members of the family of the producer.

Subsec. (d)(3)(I). Pub. L. 99–198, §101(b)(2), struck out subpar. (I) which provided that eligibility for diversion payments would be determined on the basis of the marketing history provided for under subpar. (F).

Subsec. (d)(3)(J). Pub. L. 99–198, §101(b)(2), struck out subpar. (J) which provided for quarterly diversion payments to eligible producers who were able to demonstrate compliance with terms of contract with Secretary for reduction in commercial marketing of milk.

Subsec. (d)(3)(K). Pub. L. 99–198, §101(b)(3), redesignated subpar. (K) as (E).

Subsec. (d)(3)(L). Pub. L. 99–198, §101(b)(2), struck out subpar. (L) which provided conditions under which a producer could assign a contract entered into under this paragraph.

Subsec. (d)(3)(O). Pub. L. 99–198, §101(b)(2), struck out subpar. (O) which authorized Secretary to adjust the producer's diversion payments to reflect the composition of milk marketed during the marketing history period, in the event of substantial deviation in the composition of milk marketed after that period.

Subsec. (d)(5)(B)(i). Pub. L. 99–198, §101(c), designated existing provisions as cl. (i), struck out ''(i)'' after ''Each person'', substituted ''or who fails to remit'' for '', (ii) who fails to remit'', struck out '', or (iii) who fails to make the reduction in marketings required by a contract under paragraph (3)'' before ''shall be liable'', and added cls. (ii) to (v).

Subsec. (d)(7). Pub. L. 99–198, §101(e), added par. (7).

Subsecs. (i) to (k). Pub. L. 99–198, §§801(2), 901(2), 1008, temporarily added subsecs. (i) to (k). See Effective and Termination Dates of 1985 Amendment note below.

1983—Subsec. (d). Pub. L. 98–180 amended subsec. (d) generally, substituting provision designed to adjust milk production to levels consistent with the national demand for milk and milk products by reducing the price support to $12.60 per hundredweight, with provision for further increase or decrease depending on volume, providing a 50 cents reduction per hundredweight in the price on all milk produced in the United States and marketed by producers for commercial use, and establishing a milk diversion program to reduce milk production for provision which kept the price support at $13.10 per hundredweight and authorized Secretary to collect $1.00 from farmers for every hundredweight of production sold, with the first 50 cents, payable beginning Oct. 1, 1982, to be nonrefundable, and the second 50 cents, payable beginning Apr. 1, 1983, refundable if the farmer could demonstrate reduced commercial marketings from such marketings during a defined base period.

1982—Subsec. (c). Pub. L. 97–253, §101(1), struck out provision specifying milk price supports for the period beginning Dec. 22, 1981, and ending Sept. 30, 1982, and for fiscal years ending Sept. 30, 1983, 1984, and 1985, with authority for Secretary to set milk price supports if he estimated that for such a fiscal year the net cost of Government price support purchases would be less than $1,000,000,000 for that fiscal year or if he estimated that the net Government price support purchases would be less than a specified poundage per fiscal year.

Subsec. (d). Pub. L. 97–253, §101(2), added subsec. (d).

1981—Pub. L. 97–98, §§801(1), 901(1), temporarily inserted reference in provision preceding subsec. (a) to

soybeans, sugar beets, and sugarcane. See Effective and Termination Dates of 1981 Amendment note below.

Subsec. (c). Pub. L. 97–98, § 103(1), substituted provision specifying milk price supports for the period beginning Dec. 22, 1981, and ending Sept. 30, 1982, and for fiscal years ending Sept. 30, 1983, 1984, and 1985, with authority for Secretary to set milk price supports if he estimates that for such a fiscal year the net cost of Government price support purchases will be less than $1,000,000,000 for that fiscal year or if he estimates that the net Government price support purchases will be less than a specified poundage per fiscal year for provision specifying the procedure and setting a schedule to be used to determine milk price supports for the period beginning Oct. 1, 1981, and ending Sept. 30, 1985.

Pub. L. 97–35, § 150(1), substituted provisions setting forth price support levels for the period beginning Oct. 1, 1981, and ending Sept. 30, 1985, for provisions setting forth price support levels for the period beginning Oct. 1, 1977, and ending Sept. 30, 1981.

Subsec. (d). Pub. L. 97–98, § 103(2), struck out subsec. (d) which provided that, effective for the period beginning Oct. 1, 1982, and ending Sept. 30, 1985, the support price of milk be adjusted by the Secretary at the beginning of each semiannual period to reflect the estimated change in the parity index during such semiannual period.

Pub. L. 97–35, § 150(2), added subsec. (d).

Pub. L. 97–6 struck out subsec. (d) which required that, for the period Oct. 1, 1977, to Sept. 30, 1981, the support price of milk be adjusted semiannually.

Subsecs. (g), (h). Pub. L. 97–98, §§ 801(2), 901(2), temporarily added subsecs. (g) and (h). See Effective and Termination Dates of 1981 Amendments note below.

1980—Subsec. (e). Pub. L. 96–494 inserted proviso that 1981 crop of soybeans shall be supported through loans and purchases at not less than $5.02 per bushel.

1979—Subsec. (c). Pub. L. 96–127, § 1(a), substituted Sept. 30, 1981, for Mar. 31, 1979.

Subsec. (d). Pub. L. 96–127, § 1(b), substituted Sept. 30, 1981, for Mar. 31, 1981.

1977—Pub. L. 95–113, §§ 901(1), 902(1), temporarily inserted references to soybeans, sugar beets, and sugar cane in provisions preceding subsec. (a). See Effective and Termination Dates of 1977 Amendment note below.

Subsec. (c). Pub. L. 95–113, § 203(1), substituted the period Oct. 1, 1977, through Mar. 31, 1979, for the period Aug. 10, 1973, through Mar. 31, 1975, as the period during which the price of milk shall be supported at not less than 80 per centum of parity.

Subsec. (d). Pub. L. 95–113, § 203(2), added subsec. (d).

Subsecs. (e), (f). Pub. L. 95–113, §§ 901(2), 902(2), temporarily added subsecs. (e) and (f). See Effective and Termination Dates of 1977 Amendment note below.

1973—Subsec. (b). Pub. L. 93–225 limited tung nuts price support level provisions to tung nuts through the 1976 crop year. Prior provisions were applicable to tung nuts without any crop year restriction.

Subsec. (c). Pub. L. 93–86 inserted ''of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs'' after ''necessary in order to assure an adequate supply'' and inserted provision that for the period August 10, 1973, through March 31, 1975, the price of milk shall be supported at not less than 80 per centum of the parity price therefor.

1970—Pub. L. 91–524 substituted ''and milk'' for ''milk, butterfat, and products of milk and butterfat'' in provisions preceding subsec. (a) and struck out provisions for butterfat price supports in subsec. (c).

1960—Subsec. (c). Pub. L. 86–799 inserted ''Notwithstanding the foregoing provisions, for the period beginning with September 16, 1960, and ending March 31, 1961, the price of milk for manufacturing purposes and the price of butterfat shall be supported at not less than $3.22 per hundredweight and 59.6 cents per pound, respectively.''

1958—Subsec. (b). Pub. L. 85–835 required minimum support level of tung oil to be 65 per centum of parity whenever domestic production is less than anticipated domestic demand.

1956—Subsec. (c). Act July 20, 1956, struck out ''as are'' before ''devoted,'' and substituted ''children'' for ''underprivileged children on a public welfare or charitable basis''.

Act Apr. 2, 1956 increased amount authorized for fiscal year 1956 from $50,000,000 to $60,000,000, to authorize $75,000,000 for each of fiscal years 1957 and 1958, and permitted certain institutions devoted to care and training of underprivileged children on a public welfare or charitable basis to share in the program.

1954—Act Aug. 28, 1954, §§ 203(a), 709, removed Irish potatoes and wool (including mohair) from price support list in provisions preceding subsec. (a).

Subsec. (a). Act Aug. 28, 1954, § 709, struck out subsec. (a) relating to support of wool and mohair.

Subsec. (b). Act Aug. 28, 1954, § 203(a), struck out reference to Irish potatoes.

Subsec. (c). Act Aug. 28, 1954, § 204(b), provided for disposal of surplus dairy stocks owned by CCC.

EFFECTIVE AND TERMINATION DATES OF 1990 AMENDMENT

Amendment by sections 701(1), 901(1), and 1161(b) of Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

Section 2236(a) of Pub. L. 101–624 provided that the amendment by that section is effective only for 1990 crop of sugarcane.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1007 of Pub. L. 101–239 provided that the amendment made by that section is effective only for calendar year 1990.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENTS

Section 1104(c) of Pub. L. 100–203 provided that the amendment made by that section is effective only for 1987 through 1990 crops of honey.

Section 15(a) of Pub. L. 100–45 provided that the amendment made by that section is effective for 1987 through 1990 crops of sunflowers.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 10 of Pub. L. 99–260 provided that the amendment made by that section is effective Mar. 1, 1986.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 101(f) of Pub. L. 99–198 provided that: ''The provisions of this section [amending this section] shall become effective January 1, 1986.''

Section 801 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of soybeans.

Section 901 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of sugar beets and sugarcane.

Section 1008 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1985 through 1990 crops of peanuts, soybeans, sugar beets, and sugarcane.

Section 1041 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of honey.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 101(1) of Pub. L. 97–253 provided that the amendment made by that section is effective Oct. 1, 1982.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENTS

Section 801 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crop of soybeans.

Section 901 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crop of sugar beets and sugarcane.

Amendment by section 103 of Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

Section 150 of Pub. L. 97–35 provided that the amendment made by that section is effective Oct. 1, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–494 effective Dec. 3, 1980, see section 213 of Pub. L. 96–494, set out as an Effective Date note under section 4001 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 901 of Pub. L. 95–113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of soybeans.

Section 902 of Pub. L. 95–113 provided that the amendment made by that section is effective only with respect to 1977 and 1978 crops of sugar beets and sugar cane.

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, except as otherwise specifically provided, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(3)(B) of Pub. L. 93–86 provided that the amendment made by that section is effective Apr. 1, 1974.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 202 of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to the period beginning Apr. 1, 1971, and ending Mar. 31, 1974. Pub. L. 93–86, § 1(3)(A), Aug. 10, 1973, 87 Stat. 222, amended section 202 of Pub. L. 91–524 by striking out provision making amendments by section 202 effective for the period Apr. 1, 1971, to Mar. 31, 1974.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 709 of act Aug. 28, 1954, which provided that the amendment of this section by act Aug. 28, 1954, was effective Apr. 1, 1955, was repealed by Pub. L. 103–130, § 3(a), Nov. 1, 1993, 107 Stat. 1369, eff. Dec. 31, 1995.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(H) of this title.

APPLICATION OF 1990 AMENDMENTS

Section 107 of title I of Pub. L. 101–624 provided that: ''The amendments made by this title [enacting section 1446e of this title, amending sections 450*l*, 608c, and 1446a of this title and section 713a–14 of Title 15, Commerce and Trade, and amending provisions set out as notes under sections 608c and 1731 of this title] shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act [Nov. 28, 1990].''

MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM

Section 128 of Pub. L. 102–237 provided that if, with respect to any natural disaster occurring during period beginning on Oct. 1, 1990, and ending on Feb. 1, 1991, the Secretary of Agriculture determines that natural disaster renders unusable land or milk production facilities of producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to farm idled under milk production termination program established under subsec. (d)(3) of this section, without penalty, if the producers on the farm agree to comply with all terms and conditions of program contract for remainder of contract period.

TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT

Pub. L. 100–418, title IV, § 4301, Aug. 23, 1988, 102 Stat. 1395, directed President, if, before Jan. 1, 1990, law had not been enacted in accordance with 19 U.S.C. 2191 implementing agreement negotiated under Uruguay round of multilateral trade negotiations conducted under General Agreement on Tariffs and Trade concerning agricultural trade, to submit, not later than 45 days after such date, report to Congress describing status of GATT negotiations concerning agricultural trade, and to certify to Congress whether significant progress had been made in negotiations, and provided authority for a marketing loan program if President did not so certify, and authority for an export enhancement program, if President waived or discontinued marketing loan program, prior to repeal by Pub. L. 104–127, title II, § 263(b), (c), Apr. 4, 1996, 110 Stat. 974, effective beginning with 1996 crops of wheat, feed grains, upland cotton, and rice.

PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED

Pub. L. 100–418, title IV, § 4302, Aug. 23, 1988, 102 Stat. 1397, directed Secretary to support price of 1990 crop of sunflower seeds and cottonseed if producers were permitted to repay loans for 1990 crop of soybeans under subsec. (i) of this section at level that was less than full amount of loan pursuant to section 4301 of Pub. L. 100–418 (formerly set out as a note above), and provided that, if marketing loan program for 1990 crop of soybeans was discontinued under section 4301(b)(3) of Pub. L. 100–418, Secretary was to discontinue such price support programs for sunflower seeds and cottonseed.

TEMPORARY INCREASE IN PRICE SUPPORT FOR MILK; IMPLEMENTATION

Pub. L. 101–7, § 1, Mar. 29, 1989, 103 Stat. 9, provided for allocation of price support increases and decreases between non-fat dry milk and butter with respect to purchases of butter and non-fat dry milk made under subsec. (d) of this section, in carrying out temporary $0.50 per hundredweight increase in rate of price support for milk provided for in section 102(b) of Pub. L. 100–387 (formerly set out below) and in implementing $0.50 per hundredweight decrease in rate of price support for milk scheduled to occur on July 1, 1989, as provided in such section 102(b).

Section 102(b) of Pub. L. 100–387 provided that notwithstanding subsec. (d)(1) of this section, the rate of price support for milk in effect under such subsection immediately before Apr. 1, 1989, shall be increased by 50 cents throughout the period beginning on Apr. 1, 1989, and ending on June 30, 1989.

REPORT TO COMMITTEES OF CONGRESS

Section 301(a)(2) of Pub. L. 100–387, directed Secretary of Agriculture, not earlier than Feb. 1, 1989, and not later than Mar. 1, 1989, with respect to 1989 crop of soybeans, and not later than Sept. 1, 1989, with respect to 1990 crop of soybeans, to submit to Congress statement setting forth reasons for implementing or not implementing soybean marketing loan program authorized under subsec. (i)(3) of this section.

SENSE OF CONGRESS

Section 15(b) of Pub. L. 100–45 stated sense of Congress that, if producers were permitted to repay loans for a crop of soybeans under subsec. (i) of this section at a level that is less than the full amount of the loan, the Secretary should make loans and purchases available for such crop of sunflowers in accordance with subsec. (*l*)(1) of this section and permit producers to repay such loans in accordance with subsec. (*l*)(2) of this section.

APPLICATION OF SUPPORT PRICE FOR MILK

Section 103 of Pub. L. 99–198 provided that for purposes of supporting price of milk under subsec. (d) of this section, the Secretary of Agriculture was not to take into consideration any market value of whey.

AVOIDANCE OF ADVERSE EFFECT OF MILK PRODUCTION TERMINATION PROGRAM ON BEEF, PORK, AND LAMB PRODUCERS

Section 104 of Pub. L. 99–198, directed Secretary of Agriculture, in order to minimize adverse effect of milk production termination program on beef, pork, and lamb producers during 18-month period for which such program was in effect under subsec. (d) of this section, to use funds available under specific programs of Department of Agriculture to purchase and distribute quantities of red meat in addition to those quantities normally purchased and distributed by Secretary, directed Secretary of Defense and other Federal agencies to use increased quantities of red meat to meet food needs of programs they administered, encouraged State agencies to cooperate in such effort, and directed Secretary of Agriculture to encourage consumption of red meat by the public.

CIRCUMVENTION OF HISTORICAL DISTRIBUTION OF MILK

Section 107 of Pub. L. 99–198 directed Secretary of Agriculture to monitor Commodity Credit Corporation purchases of milk products during 1986 and 1987 and report to Congress, on a quarterly basis, on disruptions of, or attempts by handlers or cooperative marketing associations to circumvent, historical distribution of milk among processors during the milk production termination program.

APPLICATION OF 1985 AMENDMENTS

Section 108 of subtitle A (§§ 101–108) of title I of Pub. L. 99–198 provided that: ''The amendments made by this subtitle [enacting section 1446c–2 of this title, amending this section, and enacting provisions set out as notes above] shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act [Dec. 23, 1985].''

NATIONAL COMMISSION ON DAIRY POLICY

Subtitle D (§§ 141–146) of title I of Pub. L. 99–198, as amended by Pub. L. 100–28, § 1, Apr. 24, 1987, 101 Stat. 291, established a National Commission on Dairy Policy to study and make recommendations concerning future operation of the Federal program established to support price of milk marketed by producers in the United States, directed Commission to submit to Secretary of Agriculture and Congress, not later than Mar. 31, 1988, a report containing results of its study and its recommendations, and provided for termination of Commission 30 days after submitting its report.

APPLICABILITY OF SUBSECTION (d)(2), (3) TO 48 CONTIGUOUS STATES, DECEMBER 1983, THROUGH MAY 1984

Pub. L. 98–213, § 14, Dec. 8, 1983, 97 Stat. 1462, provided that effective with respect to milk marketed for commercial use during period beginning on Dec. 1, 1983 and ending on May 31, 1984, subsec. (d)(2) and (3) of this section was to apply only to milk produced in the forty-eight contiguous States.

IMPLEMENTATION OF SUBSECTION (d) WITHOUT REGARD TO PUBLIC PARTICIPATION IN RULEMAKING

Section 102 of Pub. L. 99–198 provided that 5 U.S.C. 553 was not to apply with respect to implementation of subsec. (d) of this section by the Secretary of Agriculture.

Section 102(b) of Pub. L. 98–180 directed Secretary of Agriculture to implement provisions of subsec. (d) of this section, as amended by section 102(a) of Pub. L. 98–180, without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in 5 U.S.C. 553.

AVOIDANCE OF ADVERSE IMPACT OF DAIRY DIVERSION PROGRAM ON BEEF AND PORK PRODUCERS

Section 103 of Pub. L. 98–180 provided that in order to minimize adverse impact of the dairy diversion program on beef and pork producers, Secretary of Agriculture was to use funds available for purposes of 7 U.S.C. 612c(2) and other funds available under commodity distribution and other nutrition programs of Department of Agriculture to increase use of beef and pork for such purposes, Secretary of Defense and other Federal and State agencies were encouraged to use increased quantities of beef and pork to meet food needs of programs which they administered, and Secretary of Agriculture was to take appropriate action to encourage consumption of beef and pork by members of public.

PRICE SUPPORT OF MILK FOR PERIOD BEGINNING OCTOBER 1, 1981, AND ENDING NO LATER THAN DECEMBER 31, 1981

Pub. L. 97–67, § 1, Oct. 20, 1981, 95 Stat. 1039, as amended by Pub. L. 97–77, § 2(a), Nov. 13, 1981, 95 Stat. 1069, provided that notwithstanding provisions of subsec. (c) of this section, the price of milk was to be supported at the level of $13.10 per hundredweight for milk containing 3.67 per centum butterfat for the period beginning Oct. 1, 1981, and ending Dec. 22, 1981.

CONTINUATION OF SPECIAL MILK PROGRAM FOR CHILDREN

Pub. L. 85–478, July 1, 1958, 72 Stat. 276, as amended by Pub. L. 86–10, Apr. 3, 1959, 73 Stat. 15; Pub. L. 86–163, Aug. 18, 1959, 73 Stat. 363; Pub. L. 86–446, §§ 1, 2, Apr. 29, 1960, 74 Stat. 84; Pub. L. 87–67, June 30, 1961, 75 Stat. 147; Pub. L. 87–128, title IV, § 402, Aug. 8, 1961, 75 Stat. 319, authorized, for the fiscal years 1960–1962, the use of the funds of the Commodity Credit Corporation to increase the consumption of fluid milk by children (1) in nonprofit schools of high-school grade and under; and (2) in nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. Appropriations were further authorized for fiscal years 1963–1967 for the same purposes.

STUDY OF PRODUCTION CONTROL AND PRICE SUPPORTS; REPORT OF CONGRESS

Section 204(f) of act Aug. 28, 1954, directed Secretary of Agriculture to make a study of various methods of production control and of various methods of price support which could be made applicable to milk and butterfat and their products, including programs to be operated and financed by dairymen; and to submit to Congress on or before the 3d day of January 1955 a detailed report thereof showing among other things the probable costs and effects of each type of operation studied and the legislation, if any, needed to put it into effect.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 612c, 1447, 4514, 7301 of this title.

§ 1446a. Dairy products; availability through Commodity Credit Corporation

As a means of increasing the utilization of dairy products (including for purposes of this section, milk) upon the certification by the Secretary of Veterans Affairs or by the Secretary of the Army, acting for the military departments under the Department of Defense's Single Service Purchase Assignment for Subsistence, or their duly authorized representatives that the usual quantities of dairy products have been purchased in the normal channels of trade—

(a) Secretary of Veterans Affairs; needs; report to Congress

The Commodity Credit Corporation until December 31, 1995, shall make available to the Secretary of Veterans Affairs at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of Veterans Affairs certifies that he requires in order to provide butter and cheese and other dairy products as a part of the ration in hospitals under his jurisdiction. The Secretary of Veterans Affairs shall report every six months to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(b) Secretary of the Army; needs; report to Congress

The Commodity Credit Corporation until December 31, 1995, shall make available to the Secretary of the Army, at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of the Army or his duly authorized representative certifies can be utilized in order to provide additional butter and cheese and other dairy products as a part of the ration (1) of the Army, Navy, Air Force, or Coast Guard, (2) in hospitals under the jurisdiction of the Department of Defense, and (3) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy. The Secretary of the Army shall report every six months to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(c) Costs

Dairy products made available under this section shall be made available without charge, except that the Secretary of the Army or the Secretary of Veterans Affairs shall pay the Commodity Credit Corporation the costs of packaging incurred in making such products so available.

(d) Dairy products available

The obligation of the Commodity Credit Corporation to make dairy products available pursuant to the above shall be limited to dairy products acquired by the Corporation through price-support operations and not disposed of under provisions (1) and (2) of section 1431[1] of this title.

(Oct. 31, 1949, ch. 792, title II, § 202, as added Aug. 28, 1954, ch. 1041, title II, § 204(d), 68 Stat. 900; amended Apr. 2, 1956, ch. 159, § 3, 70 Stat. 87; Aug. 28, 1958, Pub. L. 85–835, title V, § 504, 72 Stat. 996; Aug. 8, 1961, Pub. L. 87–128, title IV, § 403, 75 Stat. 319; June 25, 1962, Pub. L. 87–495, 76 Stat. 109; Aug. 31, 1964, Pub. L. 88–529, 78 Stat. 736; Nov. 16, 1967, Pub. L. 90–140, 81 Stat. 464; Nov. 30, 1970, Pub. L. 91–524, title II, § 203, 84 Stat. 1361; Aug. 10, 1973, Pub. L. 93–86, § 1(4), 87 Stat. 223; Sept. 29, 1977, Pub. L. 95–113, title II, § 204, 91 Stat. 920; Dec. 22, 1981, Pub. L. 97–98, title I, § 104, 95 Stat. 1220; Dec. 23, 1985, Pub. L. 99–198, title I, § 151, 99 Stat. 1377; Nov. 28, 1990, Pub. L. 101–624, title I, § 109, 104 Stat. 3380; June 13, 1991, Pub. L. 102–54, § 13(c), 105 Stat. 274; Dec. 13, 1991, Pub. L. 102–237, title I, § 113(9), 105 Stat. 1838; Nov. 2, 1994, Pub. L. 103–437, § 4(b), 108 Stat. 4582.)

[1] See References in Text note below.

REFERENCES IN TEXT

Provisions (1) and (2) of section 1431 of this title, referred to in subsec. (d), were redesignated as subsec. (a)(1) and (2) of section 1431 of this title by Pub. L. 98–258, title V, § 502(1), Apr. 10, 1984, 98 Stat. 137.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437, § 4(b)(1), substituted ''Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House'' for ''Committees on Agriculture of the Senate and House''.

Subsec. (b). Pub. L. 103–437, § 4(b)(2), substituted ''Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House'' for ''Committees on Agriculture of the Senate and the House''.

1991—Pub. L. 102–54 and Pub. L. 102–237, § 113(9)(A), amended introductory provisions identically, substituting ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

Subsec. (a). Pub. L. 102–237, § 113(9)(B), substituted ''Secretary of Veterans Affairs'' for ''Administrator'' before ''certifies'' and ''shall report''.

Pub. L. 102–54 and Pub. L. 102–237, § 113(9)(A), amended subsec. (a) identically, substituting ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs'' before ''at warehouses''.

Subsec. (c). Pub. L. 102–54 and Pub. L. 102–237, § 113(9)(A), amended subsec. (c) identically, substituting ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1990—Subsecs. (a), (b). Pub. L. 101–624 substituted ''1995'' for ''1990''.

1985—Subsecs. (a), (b). Pub. L. 99–198 substituted ''1990'' for ''1985''.

1981—Subsecs. (a), (b). Pub. L. 97–98 substituted ''1985'' for ''1981''.

1977—Subsecs. (a), (b). Pub. L. 95–113 substituted ''1981'' for ''1977''.

1973—Subsecs. (a), (b). Pub. L. 93–86 substituted ''1977'' for ''1973''.

1970—Subsecs. (a), (b). Pub. L. 91–524 substituted ''1973'' for ''1970''.

1967—Subsecs. (a), (b). Pub. L. 90–140 substituted ''1970'' for ''1967''.

1964—Subsecs. (a), (b). Pub. L. 88–529 substituted ''1967'' for ''1964''.

1962—Subsec. (a). Pub. L. 87–495 changed requirement of a monthly report to one every six months.

1961—Subsecs. (a), (b). Pub. L. 87–128 substituted ''1964'' for ''1961''.

1958—Subsecs. (a), (b). Pub. L. 85–835 substituted ''1961'' for ''1958'' and provided for receipt of surplus dairy products by Coast Guard and United States Merchant Marine Academy.

1956—Subsecs. (a), (b). Act Apr. 2, 1956, substituted ''1958'' for ''1956''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§ 1446a–1. Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs

The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.

(Pub. L. 89–321, title VII, § 709, Nov. 3, 1965, 79 Stat. 1212; Pub. L. 89–808, § 3(b), Nov. 11, 1966, 80 Stat. 1538.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1966—Pub. L. 89–808 struck out ''foreign distribution,'' after ''community action,'', thus deleting that part authorizing purchase of dairy products for foreign donation, such authority now being included in the general authority provided for by section 1721 et seq. of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(b) of Pub. L. 89–808 provided that the amendment made by that section is effective Jan. 1, 1967.

COMMODITY DISTRIBUTION PROGRAM; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS

Prohibition on furnishing commodities under authority of this section to summer camps where number of adults participating in activities of camp exceeds one for each five children under 18 years of age participating in such activities, see section 4(b) of Pub. L. 93–86, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1777, 4004 of this title; title 42 sections 1758, 1761, 3030a, 3045f.

§ 1446b. Policy with regard to dairy products

The production and use of abundant supplies of high quality milk and dairy products are essential to the health and general welfare of the Nation: a dependable domestic source of supply of these foods in the form of high grade dairy herds and modern, sanitary dairy equipment is important to the national defense; and an economically sound dairy industry affects beneficially the economy of the country as a whole. It is the policy of Congress to assure a stabilized annual production of adequate supplies of milk and dairy products; to promote the increased use of these essential foods; to improve the domestic source of supply of milk and butterfat by encouraging dairy farmers to develop efficient production units consisting of high-grade, disease-free cattle and modern sanitary equipment; and to stabilize the economy of dairy farmers at a level which will provide a fair return for their labor and investment when compared with the cost of things that farmers buy.

(Aug. 28, 1954, ch. 1041, title II, § 204(a), 68 Stat. 899.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1954, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1446c. Domestic disposal programs for dairy products

In order to prevent the accumulation of excessive inventories of dairy products the Secretary of Agriculture shall undertake domestic disposal programs under authorities granted in the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.] and the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], or as otherwise authorized by law.

(Aug. 28, 1954, ch. 1041, title II, § 204(c), 68 Stat. 900.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in text, is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1954, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

REPORT OF DAIRY PRODUCT PURCHASES

Pub. L. 101–624, title I, § 105, Nov. 28, 1990, 104 Stat. 3379, provided that: ''The Secretary of Agriculture shall make available to the public quarterly evaluations of the acquisition and disposal of Commodity Credit Corporation purchases of dairy products.''

§ 1446c–1. Reduction of dairy product inventories

The Secretary of Agriculture shall utilize, to the fullest extent practicable, the authorities under the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.] (including exportation of dairy products at not less than prevailing world market prices), the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], and other authorities available to the Secretary to reduce inventories of dairy

products held by the Commodity Credit Corporation so as to reduce net Commodity Credit Corporation expenditures to the estimated outlays for the milk price support program used in developing budget outlays under the Congressional Budget Act of 1974 for the appropriate fiscal year.

(Pub. L. 97–98, title I, § 106, Dec. 22, 1981, 95 Stat. 1220.)

REFERENCES IN TEXT

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Agricultural Trade Development and Assistance Act of 1954, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

The Congressional Budget Act of 1974, referred to in text, is titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 298, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

DAIRY PROGRAM OPERATION REPORT

Section 107 of Pub. L. 97–98 provided that, not later than Dec. 31, 1982, the Secretary of Agriculture shall submit to Congress a report describing the strengths and weaknesses of existing Federal programs, and the consequences of possible new programs, for controlling or minimizing surpluses of fluid milk and the products thereof.

§ 1446c–2. Domestic casein industry

(a) Annual availability of surplus stocks of nonfat dry milk; bid basis

The Commodity Credit Corporation shall provide surplus stocks of nonfat dry milk of not less than 1,000,000 pounds annually to individuals or entities on a bid basis.

(b) Acceptance of bids at lower than resale price

The Commodity Credit Corporation may accept bids at lower than the resale price otherwise required by law, in order to promote the strengthening of the domestic casein industry.

(c) Nonfat dry milk sold to be used only for manufacture of casein

The Commodity Credit Corporation shall take appropriate action to ensure that the nonfat dry milk sold by the Corporation under this section is used only for the manufacture of casein.

(Pub. L. 99–198, title I, § 105, Dec. 23, 1985, 99 Stat. 1367.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

APPLICATION OF SECTION

This section not to affect any liability of any person under section 1446 of this title as in effect before Dec. 23, 1985, see section 108 of Pub. L. 99–198, set out as an Application of 1985 Amendments note under section 1446 of this title.

§ 1446d. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title II, § 203, as added May 28, 1956, ch. 327, title VI, § 601(a), 70 Stat. 212; amended Nov. 28, 1990, Pub. L. 101–624, title V, § 507, 104 Stat. 3441, related to cottonseed and cottonseed oil price support program for 1991 through 1995 crops of upland cotton.

§ 1446e. Repealed. Pub. L. 104–127, title I, § 141(g), Apr. 4, 1996, 110 Stat. 915

Section, act Oct. 31, 1949, ch. 792, title II, § 204, as added Nov. 28, 1990, Pub. L. 101–624, title I, § 101(a), 104 Stat. 3374; amended Nov. 5, 1990, Pub. L. 101–508, title I, § 1105(g), 104 Stat. 1388–6; Dec. 13, 1991, Pub. L. 102–237, title I, §§ 113(10), 127(a), 105 Stat. 1838, 1846; Aug. 10, 1993, Pub. L. 103–66, title I, § 1105(a), 107 Stat. 316; May 6, 1994, Pub. L. 103–247, § 1(c), 108 Stat. 618, related to milk price support and milk inventory management program for calendar years 1991 through 1996.

EFFECTIVE DATE OF REPEAL

Section 141(g) of Pub. L. 104–127 provided that the repeal of this section is effective on the first day of the first month beginning after Apr. 4, 1996.

§ 1446e–1. Repealed. Pub. L. 104–127, title I, § 145(e), Apr. 4, 1996, 110 Stat. 918

Section, Pub. L. 101–624, title I, § 102, Nov. 28, 1990, 104 Stat. 3378; Pub. L. 102–237, title I, § 118(e), Dec. 13, 1991, 105 Stat. 1842, related to milk manufacturing marketing adjustment.

EFFECTIVE DATE OF REPEAL

Section 145(e) of Pub. L. 104–127 provided that the repeal of this section is effective on the first day of the first month beginning after Apr. 4, 1996.

§§ 1446f to 1446h. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(H), Apr. 4, 1996, 110 Stat. 938

Section 1446f, act Oct. 31, 1949, ch. 792, title II, § 205, as added Nov. 28, 1990, Pub. L. 101–624, title VII, § 701(2), 104 Stat. 3457; amended Nov. 5, 1990, Pub. L. 101–508, title I, § 1105(a), 104 Stat. 1388–3; Dec. 13, 1991, Pub. L. 102–237, title I, § 110, 105 Stat. 1829; Aug. 10, 1993, Pub. L. 103–66, title I, § 1108, 107 Stat. 325, related to loans and payments for oilseeds for 1991 through 1995 marketing years.

Section 1446g, act Oct. 31, 1949, ch. 792, title II, § 206, as added Nov. 28, 1990, Pub. L. 101–624, title IX, § 901(2), 104 Stat. 3478; amended Nov. 5, 1990, Pub. L. 101–508, title I, § 1105(c), 104 Stat. 1388–5; Dec. 13, 1991, Pub. L. 102–237, title I, § 111(a), 105 Stat. 1829; Aug. 10, 1993, Pub. L. 103–66, title I, § 1107(a), 107 Stat. 324, related to sugar price support for 1991 through 1997 crops.

Section 1446h, act Oct. 31, 1949, ch. 792, title II, § 207, as added Nov. 28, 1990, Pub. L. 101–624, title X, § 1001, 104 Stat. 3488; amended Nov. 5, 1990, Pub. L. 101–508, title I, § 1105(d), 104 Stat. 1388–5; Aug. 10, 1993, Pub. L. 103–66, title I, § 1110, 107 Stat. 326, related to honey price support for the 1991 through 1998 crops of honey.

§ 1446i. Repealed. Pub. L. 103–354, title I, § 119(a)(6), Oct. 13, 1994, 108 Stat. 3208

Section, act Oct. 31, 1949, ch. 792, title II, § 208, as added Nov. 28, 1990, Pub. L. 101–624, title XI, § 1126, 104 Stat. 3507, related to disaster payments for 1991 through 1995 crops of peanuts, soybeans, sugar beets, and sugarcane.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§ 1447. Price support levels for other nonbasic agricultural commodities

The Secretary is authorized to make available through loans, purchases, or other operations price support to producers for any nonbasic agricultural commodity not designated in sections 1446, 1446a, and 1446d[1] of this title at a level not in excess of 90 per centum of the parity price for the commodity.

(Oct. 31, 1949, ch. 792, title III, § 301, 63 Stat. 1053; Sept. 29, 1977, Pub. L. 95–113, title X, § 1003(a), 91 Stat. 950.)

REFERENCES IN TEXT

Section 1446d of this title, referred to in text, was omitted from the Code.

AMENDMENTS

1977—Pub. L. 95–113 temporarily inserted provisions authorizing Secretary to make price support available for the 1978 through 1981 crops of flaxseed, dry edible beans, gum naval stores, and, in the case of the 1979 through 1981 crops, sugar beets and sugar cane, and for other nonbasic undesignated commodities. See Effective and Termination Dates of 1977 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 1003(a) of Pub. L. 95–113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(I) of this title.

ELIMINATION OF WOOL AND MOHAIR PROGRAMS

Pub. L. 103–130, § 3(c), Nov. 1, 1993, 107 Stat. 1369, provided that: ''Effective beginning December 31, 1995, the Secretary of Agriculture may not provide loans or payments for wool or mohair by using the funds of the Commodity Credit Corporation or under the authority of any law.''

OTHER PRICE SUPPORT PROGRAMS IN EFFECT ON SEPTEMBER 29, 1977

Section 1003(b) of Pub. L. 95–113 provided that: ''The amendment made by this section [amending this section] to the Agricultural Act of 1949 shall not be operative in any manner with respect to any price support program in effect on the date of enactment of this Act [Sept. 29, 1977].''

[1] See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1449, 7301 of this title.

§ 1448. Price support levels for storable nonbasic agricultural commodities

Without restricting price support to those commodities for which a marketing quota or marketing agreement or order program is in effect, price support shall, insofar as feasible, be made available to producers of any storable nonbasic agricultural commodity for which such a program is in effect and who are complying with such program. The level of such support shall not be in excess of 90 per centum of the parity price of such commodity nor less than the level provided in the following table:

If the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 102	90
More than 102 but not more than 104	89
More than 104 but not more than 106	88
More than 106 but not more than 108	87
More than 108 but not more than 110	86
More than 110 but not more than 112	85
More than 112 but not more than 114	84
More than 114 but not more than 116	83
More than 116 but not more than 118	82
More than 118 but not more than 120	81
More than 120 but not more than 122	80
More than 122 but not more than 124	79
More than 124 but not more than 126	78
More than 126 but not more than 128	77
More than 128 but not more than 130	76
More than 130	75

Provided, That the level of price support may be less than the minimum level provided in the foregoing table if the Secretary, after examination of the availability of funds for mandatory price support programs and consideration of the other factors specified in section 1421(b) of this title, determines that such lower level is desirable and proper.

(Oct. 31, 1949, ch. 792, title III, § 302, 63 Stat. 1053.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(I) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1449, 7301 of this title.

§ 1449. Determination of price support level

In determining the level of price support for any nonbasic agricultural commodity under sections 1447 to 1449 of this title, particular consideration shall be given to the levels at which the prices of competing agricultural commodities are being supported.

(Oct. 31, 1949, ch. 792, title III, § 303, 63 Stat. 1053.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(I) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 7301 of this title.

§ 1450. Repealed. Aug. 28, 1954, ch. 1041, title II, § 203(b), 68 Stat. 899

Section, acts Mar. 31, 1950, ch. 81, § 5, 64 Stat. 42; Jan. 30, 1954, ch. 2, § 5(a), 68 Stat. 7, provided that for the crop year of 1951 and thereafter, no price support would be available for Irish potatoes unless marketing quotas were in effect.

SUBCHAPTER IV—ACREAGE BASE AND YIELD SYSTEM

PRIOR PROVISIONS

A prior subchapter IV of the Agricultural Act of 1949, Act Oct. 31, 1949, ch. 792, title V, as added July 12, 1951, ch. 223, 65 Stat. 119, relating to the recruiting of agricultural workers from Mexico, was omitted pursuant to the provisions of section 510 thereof which provided that no workers would be available under such provisions after Dec. 31, 1964.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2279a, 7202, 7301 of this title.

§ 1461. Purpose

The purpose of this subchapter is to prescribe a system for establishing crop acreage bases and program payment yields for the wheat, feed grains, upland cotton, and rice programs under this Act that is efficient, equitable, flexible, and predictable.

(Oct. 31, 1949, ch. 792, title V, § 501, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1460; amended Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3491.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

PRIOR PROVISIONS

A prior section 1461, act Oct. 31, 1949, ch. 792, title V, § 501, as added July 12, 1951, ch. 223, 65 Stat. 119; amended Mar. 16, 1954, ch. 98, 68 Stat. 28, provided for powers, duties, and guaranties of Secretary of Labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally. Prior to amendment, section read as follows: ''The purpose of this subchapter is to prescribe a system for establishing farm and crop acreage bases and program yields for the wheat, feed grain, upland cotton, and rice programs under this Act that is efficient, equitable, flexible, and predictable.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES

Section 1031 of Pub. L. 99–198 provided that this subchapter is effective for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

§ 1462. Definitions

For purposes of this subchapter—

(1) County committee

The term ''county committee'' means the county committee established under section 590h(b) of title 16 for the county in which the farm is administratively located.

(2) Oilseed

The term ''oilseed'' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(3) Program crop

The term ''program crop'' means a crop of wheat, corn, grain sorghums, oats, barley, upland cotton, or rice.

(Oct. 31, 1949, ch. 792, title V, § 502, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1461; amended Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3491.)

PRIOR PROVISIONS

A prior section 1462, act Oct. 31, 1949, ch. 792, title V, § 502, as added July 12, 1951, ch. 223, 65 Stat. 119; amended Aug. 9, 1955, ch. 679, § 2, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87–345, § 1, 75 Stat. 761, related to liabilities and guaranties of employers as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally. Prior to amendment, section read as follows: ''For purposes of this subchapter—

''(1) the term 'program crop' means any crop of wheat, feed grains, upland cotton, or rice; and

''(2) the term 'county committee' means the county committee established under section 590h(b) of title 16 for the county in which the farm is administratively located.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

§ 1463. Crop acreage bases

(a) Establishment

(1) In general

The Secretary shall provide for the establishment and maintenance of crop acreage bases for each program crop, including any program crop produced under an established practice of double cropping.

(2) Limitation

The sum of the crop acreage bases on the farm may not exceed the cropland on the

farm, except to the extent there is an established practice of double cropping on the farm.

(3) "Double cropping" defined

As used in this subsection, the term ''double cropping'' means a farming practice, as defined by the Secretary, that has been carried out on a farm during at least 3 of the 5 crop years immediately preceding the crop year for which the crop acreage base for the farm is established.

(b) Calculation

(1) In general

Except as provided in paragraph (2), the crop acreage base for each program crop for a farm for a crop year shall be the number of acres that is equal to the average of the acreage planted and considered planted to the program crop for harvest on the farm in each of the 5 crop years preceding the crop year.

(2) Cotton and rice

(A) In general

In the case of upland cotton and rice, except as provided in subparagraph (B), the crop acreage base for such crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 3 crop years preceding such crop year.

(B) Exception

(i) 1991 crops

In the case of each of the 1991 crops of upland cotton and rice, if the producers on a farm did not participate in the production adjustment program established for the 1989 and 1990 crops of upland cotton and rice, respectively, the crop acreage base for the 1991 crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 5 crop years preceding the 1991 crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm. Any crop acreage base established in accordance with this subparagraph shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 2 crop years preceding the 1991 crop year.

(ii) 1992 crops

In the case of each of the 1992 crops of upland cotton and rice, if the producers on a farm did not participate in the production adjustment program established for the 1990 and 1991 crops of upland cotton and rice, respectively, the crop acreage base for the 1992 crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 5 crop years preceding the 1992 crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm. Any crop acreage base established in accordance with this subparagraph shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 2 crop years preceding the 1992 crop year.

(c) Acreage considered planted

For purposes of this Act, acreage considered planted to a program crop shall consist of—

(1) any reduced acreage and diverted acreage on the farm;

(2) any acreage on the farm that producers were prevented from planting to the crop because of drought, flood, or other natural disaster, or other condition beyond the control of the producers;

(3) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted by the Secretary under the programs established for any of the 1991 through 1997 crops of wheat, feed grains, upland cotton, and rice established under sections 1445b–3a(c)(1)(E), 1444f(c)(1)(E), 1444–2(c)(1)(D),[1] and 1441–2(c)(1)(D) of this title, respectively;

(4) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to the production of commodities in accordance with section 1464 of this title;

(5) any acreage on the farm that the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base;

(6) acreage in an amount not to exceed 20 percent of the crop acreage base for a crop of feed grains or wheat if—

(A) the acreage is planted to dry peas,[2] (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils; and

(B) payments are not received by producers under sections 1444f(c)(1)(E) and 1445b–3a(c)(1)(E)[1] of this title, as the case may be;

(7) the crop acreage base for the crop, if producers on the farm forgo receiving any payments under the program established under subchapter II of this chapter for the crop and certify that no acreage on the farm was planted to—

(A) the crop; or

(B) any fruit or vegetable crop (including potatoes and dry edible beans) not designated as an industrial or experimental crop by the Secretary, in excess of normal plantings; and

(8) any acreage on the farm for which the crop acreage base for the crop on the farm was adjusted because of a condition or occurrence beyond the control of the producer pursuant to subsection (h) of this section.

(d) Construction of planting history

For the purpose of determining the crop acreage base for the 1991 and subsequent crop years

[1] See References in Text note below.

[2] So in original. The comma probably should not appear.

for any farm, the county committee, in accordance with regulations prescribed by the Secretary, may construct a planting history for such crop if—

(1) planting records for such crop for any of the 5 crop years preceding such crop year are incomplete or unavailable; or

(2) during at least one but not more than 4 of the 5 crop years preceding such crop year, the program crop was not produced on the farm.

(e) Crop rotation and other factors

The Secretary shall make adjustments to reflect crop rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable crop acreage base, including adjustments necessary to enable producers to meet the requirements of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

(f) Prevented planting

If a county committee determines, in accordance with regulations prescribed by the Secretary, that the occurrence of a natural disaster or other similar condition beyond the control of the producer prevented the planting of a program crop on any farm within the county (or substantially destroyed any such program crop after it had been planted but before it had been harvested), the producer may plant any other crop, including any other program crop, on the acreage of such farm that, but for the occurrence of such disaster or other condition, would have been devoted to the production of a program crop. For purposes of determining the crop acreage base, any acreage on the farm on which a substitute crop, including any program crop, is planted under this subsection shall be taken into account as if such acreage had been planted to the program crop for which the other crop was substituted.

(g) Subsequent crop years

A producer who is eligible to receive a deficiency payment for any program crop or crop of extra long staple cotton in any crop year with respect to a farm may not use the acreage planted or considered planted to any program crop or crop of extra long staple cotton on the farm in the crop year to increase any crop acreage base established for the farm in a subsequent crop year.

(h) Adjustment of bases

(1) In general

The county committee, in accordance with regulations prescribed by the Secretary, may adjust any crop acreage base for any program crop for any farm if the crop acreage base for the crop on the farm would otherwise be adversely affected by a condition or occurrence beyond the control of the producer.

(2) Restoration of crop acreage base

(A) In general

For the 1992 through 1997 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2) of this section, above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1997 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

(B) "Eligible producer" defined

For the purposes of this paragraph, the term ''eligible producer'' means a producer of upland cotton or rice who, the appropriate county committee determines—

(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) of this section and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

(C) Regulations

The Secretary shall issue regulations to carry out this paragraph.

(Oct. 31, 1949, ch. 792, title V, § 503, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1461; amended Aug. 11, 1988, Pub. L. 100–387, title III, § 302(a), 102 Stat. 947; Aug. 14, 1989, Pub. L. 101–81, § 2, 103 Stat. 563; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3491; Dec. 13, 1991, Pub. L. 102–237, title I, § 112(a), (b), 105 Stat. 1836; Aug. 10, 1993, Pub. L. 103–66, title I, § 1101(b)(2)(A), 107 Stat. 314.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Sections 1441–2, 1444–2, 1444f, and 1445b–3a of this title, referred to in subsec. (c)(3), (6)(B), were repealed by Pub. L. 104–127, title I, § 171(b)(2)(A)–(D), Apr. 4, 1996, 110 Stat. 938.

The Food Security Act of 1985, referred to in subsec. (e), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the ''Sodbuster Law'', is classified principally to chapter 58 (§ 3801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1463, act Oct. 31, 1949, ch. 792, title V, § 503, as added July 12, 1951, ch. 223, 65 Stat. 120; amended Aug. 9, 1955, ch. 679, § 3, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87–345, § 2, 75 Stat. 761, related to certification of need for workers, consultation with employers and workers, and posting of information as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

A prior section 1463a, act Oct. 31, 1949, ch. 792, title V, § 504, as added Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, restricted duration and nature of employment as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1993—Subsec. (c)(3). Pub. L. 103–66, § 1101(b)(2)(A)(i), struck out ''0/92 or 50/92'' before ''programs established'' and substituted ''1997'' for ''1995''.

Subsec. (h)(2)(A). Pub. L. 103–66, § 1101(b)(2)(A)(ii), substituted ''1997'' for ''1995'' in two places.

1991—Subsec. (c)(6) to (8). Pub. L. 102–237, § 112(a), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

Subsec. (h)(1), (2). Pub. L. 102–237, § 112(b), designated existing provisions as par. (1), inserted heading, and added par. (2).

1990—Pub. L. 101–624 amended section generally, substituting provisions relating to crop acreage bases for provisions relating to the establishment and maintenance of farm acreage bases for 1986 and subsequent crop years.

1989—Subsec. (c)(1). Pub. L. 101–81 temporarily struck out ''if the acreage limitation percentage established for a crop of feed grains under section 1444e(f) of this title is 12.5 percent or less,'' after ''effective for each of the 1989 and 1990 crops,''. See Effective and Termination Dates of 1989 Amendment note below.

1988—Subsec. (c). Pub. L. 100–387 added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 2 of Pub. L. 101–81 provided that the amendment made by that section is effective only for 1990 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

§ 1464. Planting flexibility

(a) In general

The producers on a farm may, in accordance with this section, plant for harvest on the crop acreage base established for a program crop a commodity, other than the specific program crop, without suffering a reduction in the crop acreage base as a result of the production.

(b) Specified commodities

(1) Permitted crops

Except as provided in paragraph (2), for purposes of this section, the commodities that may be planted for harvest on a crop acreage base are—

(A) any program crop;

(B) any oilseed;

(C) any industrial or experimental crop designated by the Secretary;

(D) any other crop, except any fruit or vegetable crop (including potatoes and dry edible beans) not designated by the Secretary as—

(i) an industrial or experimental crop; or

(ii) a crop for which no substantial domestic production or market exists; and

(E) mung beans.

(2) Limitation

For purposes of this section, the Secretary may, at the discretion of the Secretary, prohibit the planting on a crop acreage base of any crop specified in paragraph (1).

(3) Notification

With regard to commodities that may be planted pursuant to this subsection, the Secretary shall make a determination in each crop year of the commodities that may not be planted pursuant to this subsection and shall make available a list of the commodities.

(c) Limitation on acreage

(1) In general

Except as provided in paragraph (2), the quantity of the crop acreage base that may be planted to a commodity, other than the specific program crop, under this section may not exceed 25 percent of the crop acreage base.

(2) Exception for soybeans

If on January 1 of any calendar year the Secretary estimates that the national average price of soybeans during the following marketing year for soybeans would be less than 105 percent of the nonrecourse loan level for soybeans established in section 1446f[1] of this title if soybeans were allowed to be planted on up to 25 percent of the crop acreage base under this section, the quantity of the crop acreage base that may be planted to soybeans under this section may not exceed 15 percent of the crop acreage base.

(d) Plantings in excess of permitted acreage

Notwithstanding any other provision of this Act, producers of a program crop who are participating in the production adjustment program for that program crop under this Act shall be allowed to plant that program crop in a quantity that exceeds the permitted acreage for that crop without losing their eligibility for loans, purchases, or payments with respect to that crop under this Act if—

(1) the acreage planted to the program crop on the farm in excess of the permitted acreage does not exceed 25 percent of the crop acreage bases on the farm for other program crops; and

(2) the producer agrees to a reduction in permitted acreage for the other program crops produced on the farm by a quantity equal to the overplanting.

(e) Loan eligibility

(1) In general

Producers of a specific program crop (referred to in this subsection as the ''original program crop'') who plant for harvest on the crop acreage base established for such original program crop another program crop in accordance with this section and who are not participants in the program established for such other program crop shall be eligible to receive loans, purchases, or loan deficiency payments for such other program crop on the same terms and conditions as are provided to participants in a production adjustment program established for such other program crop.

(2) Requirements

Producers shall be eligible to receive loans, purchases, or loan deficiency payments under this subsection if the producers—

(A) plant such other program crop in an amount that does not exceed 25 percent of the crop acreage base established for the original program crop; and

[1] See References in Text note below.

(B) agree to a reduction in the permitted acreage for the original program crop for the particular crop year.

(Oct. 31, 1949, ch. 792, title V, § 504, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1461; amended Feb. 28, 1986, Pub. L. 99–253, § 4, 100 Stat. 37; Mar. 20, 1986, Pub. L. 99–260, § 8, 100 Stat. 51; Aug. 11, 1988, Pub. L. 100–387, title III, § 301(a)(1), 102 Stat. 945; Aug. 14, 1989, Pub. L. 101–81, § 1, 103 Stat. 563; Aug. 14, 1989, Pub. L. 101–82, title VI, § 603(a), 103 Stat. 587; Dec. 19, 1989, Pub. L. 101–239, title I, § 1002(a), 103 Stat. 2106; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3494; Dec. 13, 1991, Pub. L. 102–237, title I, § 112(c), 105 Stat. 1837.)

REFERENCES IN TEXT

Section 1446f of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 104–127, title I, § 171(b)(2)(H), Apr. 4, 1996, 110 Stat. 938.

This Act, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

PRIOR PROVISIONS

A prior section 1464, act Oct. 31, 1949, ch. 792, title V, § 505, formerly § 504, as added July 12, 1951, ch. 223, 65 Stat. 120, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to workers subject to immigration laws, dispensed with need of penalty bond, and provided for effect of use of ''wetback'' labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1991—Subsec. (b)(1)(E). Pub. L. 102–237 added subpar. (E).

1990—Pub. L. 101–624 amended section generally, substituting provisions authorizing producers to plant crops, other than specific program crops, without a reduction in crop acreage base for provisions relating to the establishment and maintenance of crop acreage bases for each program crop, defining ''double cropping'' and determining crop acreage bases.

1989—Subsec. (b)(2)(E). Pub. L. 101–81, § 1(1), temporarily added subpar. (E). Former subpar. (E) redesignated (F). See Effective and Termination Dates of 1989 Amendments note below.

Subsec. (b)(2)(E)(i). Pub. L. 101–82 inserted ''mung bean, mustard,'' after ''milkweed,''.

Subsec. (b)(2)(F). Pub. L. 101–81, § 1(2), temporarily redesignated subpar. (E) as (F). See Effective and Termination Dates of 1989 Amendments note below.

Subsec. (e). Pub. L. 101–239, in temporarily amending subsec. (e) generally, made provisions applicable to 1990 crops only instead of to 1989 and 1990 crops, authorized planting of safflower permitted acreage, removed 10 percent as minimum acreage required to be planted with program crops, and substituted 110 percent for 115 percent as percentage of loan rate for 1990 crops used to determine permitted acreage. See Effective and Termination Dates of 1989 Amendments note below.

1988—Subsec. (e). Pub. L. 100–387 temporarily added subsec. (e). See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (b)(1)(B)(ii). Pub. L. 99–253 substituted ''clause (i)'' for ''paragraph (1)(A) and paragraph (1)(B)(i)''.

Subsec. (b)(2)(C). Pub. L. 99–260, § 8(2), added subpar. (C) and struck out former subpar. (C) which read as follows: ''acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is planted to a nonprogram crop, other than soybeans and extra long staple cotton; and''.

Subsec. (b)(2)(D), (E). Pub. L. 99–260, § 8, added subpar. (D) and redesignated former subpar. (D) as (E).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENTS

Section 1002(a) of Pub. L. 101–239 provided that the amendment made by that section is effective only for 1990 crops.

Section 603(b) of Pub. L. 101–82 provided that: ''The amendment made by subsection (a) [amending this section] shall become effective 1 day after the date of enactment of the Act so entitled [Pub. L. 101–81, approved Aug. 14, 1989].''

Section 1 of Pub. L. 101–81 provided that the amendment made by that section is effective only for 1990 crops.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 301(a)(1) of Pub. L. 100–387 provided that the amendment made by that section is effective for 1989 and 1990 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

COTTONSEED AND SUNFLOWERSEED OIL

Section 301(b) of Pub. L. 100–387, as amended by Pub. L. 101–624, title XV, § 1541, Nov. 28, 1990, 104 Stat. 3691; Pub. L. 102–237, title VI, § 602(b), Dec. 13, 1991, 105 Stat. 1878, provided that:

''(1) The Secretary of Agriculture shall determine if the price of cottonseed or cottonseed products is adversely affected by the amendment made by subsection (a)(1) [amending this section]. If the Secretary determines that any such price has been adversely affected, the Secretary shall support the price of cottonseed and cottonseed products through loans, purchases, export assistance, or any other form of assistance, as necessary to offset such adverse effect.

''(2)(A)(i) Effective for each of the fiscal years 1991 through 1995, $50,000,000 of the funds made available under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c), shall, to the extent provided in appropriations Acts, be utilized during each such fiscal year as provided for in clause (1) of the second sentence of such section to encourage the sale of additional quantities of sunflowerseed oil and cottonseed oil in world markets at competitive world prices through the payment of benefits in connection with the exportation of such commodities.

''(ii) Clause (i) shall be implemented in such a manner as to maximize the export of such oils by assuring that the sums made available under such clause are fully obligated in the year or years in which—

''(I) such sums are made available; and

''(II) the domestic prices of such oils exceed competitive world prices.

''(iii) In determining sales on which benefits are to be provided under this subparagraph, the Secretary shall take into consideration solely the amount of benefits needed to encourage the sale.

''(iv) In carrying out this subparagraph, the Secretary shall ensure that, to the maximum extent practicable, equivalent amounts of funds are used during each fiscal year to encourage the sale of sunflowerseed oil and cottonseed oil in world markets.

''(B) To the extent practicable, facilitation of cottonseed oil exports shall be accomplished through the use

of authorities available to the Secretary other than the authority granted in subparagraph (A).

''(3) Except as otherwise provided in paragraph (2)(A), the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1463 of this title.

§ 1465. Farm program payment yields

(a) Establishment

The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each crop year in accordance with subsection (b) or (c) of this section.

(b) Farm program payment yields based on 1990 crop year

(1) In general

If the Secretary determines that farm program payment yields shall be established in accordance with this subsection, except as provided in paragraphs (2) and (3), the farm program payment yield for each of the 1991 through 1997 crop years shall be the farm program payment yield for the 1990 crop year for the farm.

(2) Additional yield payments

In the case of each of the 1991 through 1997 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. The payments shall be made available not later than the time final deficiency payments are made.

(3) No crop or yield available

If no crop of the commodity was produced on the farm or no farm program payment yield was established for the farm for any of the 1981 through 1985 crop years (or, as appropriate, the 1986 through 1990 crop years), the farm program payment yield shall be established on the basis of the average farm program payment yield for the crop years for similar farms in the area.

(4) National, State, or county yields

If the Secretary determines the action is necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting the yields in the historical period; or

(B) the Secretary's estimate of actual yields for the crop year involved if historical yield data is not available.

(5) Balancing yields

If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(c) Determination of yields

(1) Actual yields

With respect to the 1991 and subsequent crop years, the Secretary may—

(A) establish the farm program payment yield as provided in subsection (a) of this section; or

(B) establish a farm program payment yield for any program crop for any farm on the basis of the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

(2) Prior yields

For purposes of the preceding sentence, the farm program payment yield for the 1986 crop year and the actual yield per harvested acre with respect to the 1987 and subsequent crop years shall be used in determining farm program payment yields.

(3) Reduction limitation

Notwithstanding any other provision of this paragraph, for purposes of establishing a farm program payment yield for any program crop for any farm for the 1991 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.

(4) Adjustment of yields

The county committee, in accordance with regulations prescribed by the Secretary, may adjust any farm program payment yield for any program crop for any farm if the farm program payment yield for the crop on the farm does not accurately reflect the productive potential of the farm.

(d) Assignment of yields

In the case of any farm for which the actual yield per harvested acre for any program crop referred to in subsection (c) of this section for any crop year is not available, the county committee may assign the farm a yield for the crop for the crop year on the basis of actual yields for the crop for the crop year on similar farms in the area.

(e) Actual yield data

(1) Provision

The Secretary shall, under such terms and conditions as the Secretary may prescribe, allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop.

(2) Maintenance

The Secretary shall maintain the data for at least 5 crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs.

(3) Notification

The Secretary shall provide timely notification to producers of the provisions of this subsection.

(Oct. 31, 1949, ch. 792, title V, § 505, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1462; amended Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3495; Aug. 10, 1993, Pub. L. 103–66, title I, § 1101(b)(2)(B), 107 Stat. 314.)

PRIOR PROVISIONS

A prior section 1465, act Oct. 31, 1949, ch. 792, title V, § 506(c), formerly § 505(c), as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, provided for an exemption from a head tax as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

A prior section 1465a, act Oct. 31, 1949, ch. 792, title V, § 506(d), as added Oct. 3, 1961, Pub. L. 87–345, § 4, 75 Stat. 761, provided for illness or disability tax as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1993—Subsec. (b)(1), (2). Pub. L. 103–66 substituted ''1997'' for ''1995''.

1990—Pub. L. 101–624 amended section generally, substituting provisions establishing farm program payment yields for provisions authorizing Secretary to provide for upward adjustments of any crop acreage base for any farm for any crop year.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7202 of this title.

§ 1466. Planting and production history of farms

Each county committee, in accordance with regulations prescribed by the Secretary, may require any producer who seeks to establish a crop acreage base or farm program payment yield for a farm for a crop year to provide planting and production history of the farm for each of the 5 crop years immediately preceding the crop year.

(Oct. 31, 1949, ch. 792, title V, § 506, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1463; amended Mar. 20, 1986, Pub. L. 99–260, § 3, 100 Stat. 48; Dec. 22, 1987, Pub. L. 100–203, title I, § 1109, 101 Stat. 1330–6; Dec. 12, 1989, Pub. L. 101–220, § 11(a), 103 Stat. 1882; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3497.)

PRIOR PROVISIONS

A prior section 1466, act Oct. 31, 1949, ch. 792, title V, § 507, formerly § 506, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered § 507, Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to utilization of Federal and State agencies by Secretary of Labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

A prior section 506(a), formerly 505(a), of act Oct. 31, 1949, ch. 792, title V, as added July 12, 1951, ch. 223, 65 Stat. 120; renumbered § 506(a), Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, amended section 410(a)(1) of Title 42, The Public Health and Welfare.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting provisions authorizing county committees to require producers who seek to establish a crop acreage base or program payment yield to produce a planting and production history of farm for previous 5 crop years, for provisions relating to establishment of program payment yields.

1989—Subsec. (e). Pub. L. 101–220 temporarily added subsec. (e). See Effective and Termination Dates of 1989 Amendment note below.

1987—Subsec. (b)(2)(C). Pub. L. 100–203 temporarily added subpar. (C). See Effective and Termination Dates of 1987 Amendment note below.

1986—Subsec. (b)(1). Pub. L. 99–260, § 3(a)(1), substituted ''paragraphs (2) and (3)'' for ''paragraph (2)''.

Subsec. (b)(2) to (5). Pub. L. 99–260, § 3(a)(2), (3), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsec. (c)(1). Pub. L. 99–260, § 3(b), inserted provision that for purposes of establishing a farm program payment yield for any program crop for any farm for the 1988 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 11(a) of Pub. L. 101–220 provided that the amendment made by that section is effective for 1989 and 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1109 of Pub. L. 100–203 provided that the amendment made by that section is effective only for 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

SUBMISSION OF SOYBEAN ACTUAL YIELD DATA TO COUNTY COMMITTEES

Section 11(b) of Pub. L. 101–220 provided that: ''With respect to the 1989 and 1990 crop years, the Secretary shall allow producers of soybeans to provide to county committees (as defined in section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462)) data with respect to the actual yield for each farm for each crop of soybeans. The Secretary shall maintain such data for at least five crop years after receipt in such a manner as to be easily accessible. The Secretary shall provide timely notification to producers of the provisions of this section.''

§ 1467. Establishment of bases and yields by county committees

Each county committee may, in accordance with regulations prescribed by the Secretary, provide for the establishment of a crop acreage base, and farm program payment yield with respect to any farm administratively located

within the county if the crop acreage base or farm program payment yield cannot otherwise be established under this subchapter. The crop acreage bases and farm program payment yields shall be established in a fair and equitable manner, but no such bases or farm program payment yields shall be established for a farm if the producer on the farm is subject to sanctions under any provision of Federal law for cultivating highly erodible land or converted wetland.

(Oct. 31, 1949, ch. 792, title V, § 507, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1463; amended Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3497.)

PRIOR PROVISIONS

A prior section 1467, act Oct. 31, 1949, ch. 792, title V, § 508, formerly § 507, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered § 508 and amended Oct. 3, 1961, Pub. L. 87–345, §§ 3, 5, 75 Stat. 761, defined ''agricultural employment'' and ''employer'' for purposes of the program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting provisions relating to establishment of bases and yields by county committees for provisions requiring producers who want to establish a farm or crop acreage base or program payment yield to produce a 5 year planting and production history of farm.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

§ 1468. Appeals

The Secretary shall establish an administrative appeal procedure that provides for an administrative review of determinations made with respect to crop acreage bases and farm program payment yields.

(Oct. 31, 1949, ch. 792, title V, § 508, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1464; amended Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3497.)

PRIOR PROVISIONS

A prior section 1468, act Oct. 31, 1949, ch. 792, title V, § 509, formerly § 508, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered § 509, Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to importation of workers from other foreign countries with regard to a program of recruiting agricultural workers from Mexico for employment up to December 31, 1964.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting provisions relating to establishment of an appeals procedure to review determinations made with respect to crop acreage bases and program payment yields for provisions relating to establishment of bases and yields not otherwise capable of establishment by county committees for farms administratively located within a county.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

§ 1469. Crops

Notwithstanding any other provision of law, this subchapter shall be effective only for the 1991 through 1997 program crops.

(Oct. 31, 1949, ch. 792, title V, § 509, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1031, 99 Stat. 1464; amended Nov. 28, 1990, Pub. L. 101–624, title XI, § 1101, 104 Stat. 3497; Aug. 10, 1993, Pub. L. 103–66, title I, § 1101(b)(2)(C), 107 Stat. 314.)

PRIOR PROVISIONS

A prior section 509, formerly 508, of act Oct. 31, 1949, was formerly classified to section 1468 of this title. See Prior Provisions note set out under section 1468 of this title.

AMENDMENTS

1993—Pub. L. 103–66 substituted ''1997'' for ''1995''.

1990—Pub. L. 101–624 amended section generally, substituting provisions stating that this subchapter would be effective only for 1991 through 1995 program crops for provisions relating to procedures to review determinations made with respect to farm acreage bases and program payment yields.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(K) of this title.

SUBCHAPTER V—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1427, 7301 of this title.

§ 1471. Definitions

As used in this subchapter:

(1) The term ''livestock producer'' means—

(A) a person that is actively engaged in farming and that receives a substantial amount of total income from the production of grain or livestock, as determined by the Secretary, that is—

(i) an established producer or husbander of livestock or a dairy producer who is a citizen of, or legal resident alien in, the United States; or

(ii) a farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in,

the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production or husbandry, or dairy production; or

(B) Any[1] of the following entities that is actively engaged in livestock production or husbandry, or dairy production—

(i) any Indian tribe (as defined in section 450b(b) of title 25);[2]

(ii) any Indian organization or entity chartered under the Act of June 18, 1934 (48 Stat. 984, chapter 576; 25 U.S.C. 461 et seq.), commonly known as the ''Indian Reorganization Act'';

(iii) any tribal organization (as defined in section 450b(c) of title 25);[2] or

(iv) any economic enterprise (as defined in section 1452(e) of title 25);

(2) The term ''livestock'' means cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

(B) are purchased as part of a normal operation and not to obtain additional benefits under this subchapter.

(3) The term ''State'' means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(4) The term ''feed'', for the purposes of emergency feed assistance, means any type of feed (including feed grain, oilseed meal, premix or mixed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that—

(A) best suits the livestock producer's operation; and

(B) is consistent with acceptable feed practices.

(5) The term ''area'' includes any Indian reservation (as defined in section 1985(e)(1)(D)(ii)[2] of this title).

(Oct. 31, 1949, ch. 792, title VI, § 602, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 926.)

REFERENCES IN TEXT

Section 450b of title 25, referred to in par. (1)(B)(i), (iii), has been amended, and subsecs. (b) and (c) of section 450b no longer define the terms ''Indian tribe'' and ''tribal organization''. However, such terms are defined elsewhere in that section.

Act of June 18, 1934, referred to in par. (1)(B)(ii), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, popularly known as the Indian Reorganization Act, which enacted sections 461, 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478, and 479 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 461 of Title 25 and Tables.

Section 1985(e)(1)(D)(ii) of this title, referred to in par. (5), was redesignated section 1985(e)(1)(A)(ii) of this title by Pub. L. 104–127, title VI, § 638(3)(A)(ii), Apr. 4, 1996, 110 Stat. 1096.

[1] So in original. Probably should not be capitalized.

[2] See References in Text note below.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

SHORT TITLE

For short title of title VI of act Oct. 31, 1949, ch. 792, which enacted this subchapter, as the ''Emergency Livestock Feed Assistance Act of 1988'', see Short Title of 1988 Amendment note set out under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5602 of this title.

§ 1471a. Emergency livestock assistance

(a) The Secretary shall provide emergency feed assistance under this subchapter for the preservation and maintenance of livestock in any State or area of a State where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster, the Secretary determines that a livestock emergency exists.

(b)(1) The Secretary shall provide emergency feed assistance under this subchapter for the preservation and maintenance of livestock, to livestock producers that—

(A) conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has determined, under subsection (a) of this section, that a livestock emergency exists, and

(B) are otherwise eligible for assistance under this subchapter.

(2) The Secretary shall accept applications for assistance under this subsection from producers that are affected by the livestock emergency at any time during the eight-month period beginning on the date on which the Secretary determines that such emergency exists in the other county.

(Oct. 31, 1949, ch. 792, title VI, § 603, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 927.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1471c of this title.

§ 1471b. Determination of need for assistance

(a) Determination and request by Governor or county committee

(1) Whenever the Governor of a State determines that a livestock emergency due to a natu-

ral disaster exists in the State, or a county committee established under section 590h(b) of title 16 determines that such an emergency exists in the county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in such State or county and for emergency livestock feed assistance under this subchapter.

(2) The request of a Governor or county committee for a livestock emergency determination and for emergency livestock feed assistance shall include, to the extent feasible, recommendations to the Secretary of those options that will most fully use feed available through local sources.

(b) Consideration for assistance without request

The Secretary may consider a State, county, or area in a State for a livestock emergency determination and emergency livestock feed assistance under this subchapter whether or not a request for assistance is submitted, as described in subsection (a) of this section.

(c) Prompt action by Secretary

The Secretary shall act on requests for determinations under subsection (a) of this section and make final determinations on whether a livestock emergency exists in any State, county, or area, under regulations that ensure thorough and prompt action (not later than 30 days after receipt of any such request) and provide for appropriate notification procedures.

(d) Eligibility under prior programs; availability of other programs

Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related conditions in 1988, for the emergency feed program or emergency feed assistance program conducted prior to the effective date of this subchapter shall continue to be eligible for such programs and may be eligible for other programs under this subchapter for such drought or related condition. As soon as practicable after the effective date of this subchapter, the Secretary shall determine whether any of the programs described in section 1471d of this title, other than the emergency feed program under section 1471d(a)(4) of this title and the emergency feed assistance program under section 1471d(a)(2) of this title, or in section 1471e of this title should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

(Oct. 31, 1949, ch. 792, title VI, § 604, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 927.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (d), is 15 days after Aug. 11, 1988, the effective date of section 101(a) of Pub. L. 100–387. See section 101(c) of Pub. L. 100–387, set out as a note under section 1427 of this title.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsec. (d) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471c, 1471i of this title.

§ 1471c. Eligible producers

(a) Qualifying livestock producers

(1) If the Secretary determines that a livestock emergency exists in a State, county, or area, qualifying livestock producers located in such State, county, or area, or in a contiguous county as provided for in section 1471a(b) of this title, shall be eligible (under application procedures established by the Secretary) for emergency feed assistance under this subchapter in accordance with this subsection.

(2) For the purposes of this subsection, a ''qualifying livestock producer'' is a livestock producer who has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the livestock emergency and, as a result, does not have sufficient feed that has adequate nutritive value and is suitable for each of such producer's particular types of livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 1471b of this title) for the estimated duration of the emergency.

(3) Each qualifying livestock producer shall be eligible for emergency feed assistance under the programs specified in section 1471d(a) of this title that is made available where the producer is located in quantities sufficient to meet such feed deficiency with respect to the producer's livestock normally fed with feed produced by the producer.

(b) Availability of additional assistance

Each livestock producer in such State, county, or area, or in a contiguous county as provided for in section 1471a(b) of this title, regardless of whether the producer qualifies for assistance under subsection (a) of this section, shall be eligible for emergency assistance under the programs specified in section 1471e of this title that are made available where the producer is located.

(c) Program participation option

Any livestock producer, located in a county or area in which benefits under the emergency feed program or the emergency feed assistance program were made available due to the drought or related condition in 1988 prior to the effective date of this subchapter, who qualifies for assistance under such pre-existing programs shall be eligible for assistance for such drought or related conditions as prescribed in subsection (a) of this section or, at the producer's option, for assistance under such pre-existing programs.

(Oct. 31, 1949, ch. 792, title VI, § 605, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 928.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (c), is 15 days after Aug. 11, 1988, the effective date of section 101(a) of Pub. L. 100–387. See section 101(c) of Pub. L. 100–387, set out as a note under section 1427 of this title.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsec. (c) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471d, 1471i of this title.

§ 1471d. Assistance programs

(a) Available programs

In accordance with section 1471c(a) of this title, the Secretary shall make one or more of the following assistance programs available to qualifying livestock producers in a State, county or area, if the Secretary determines that the livestock emergency in such State, county or area requires the implementation of such program:

(1) The donation of feed grain owned by the Commodity Credit Corporation to producers who are financially unable to purchase feed under paragraph (2) or to participate in any other program authorized under this subsection.

(2) The sale of feed grain owned by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

(A) with respect to such assistance provided for any livestock emergency determined to exist prior to January 1, 1989, 75 percent of the current basic county loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

(B) with respect to such assistance provided for any other livestock emergency, 50 percent of the average market price in the county or area involved, as determined by the Secretary.

(3) Reimbursement of any transportation and handling expenses incurred, not to exceed 50 percent of such expenses, by a producer in connection with feed grain donations or sales under paragraphs (1) and (2).

(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by a producer for the producer's livestock during the duration of the livestock emergency.

(5) Hay and forage transportation assistance to producers of not to exceed 50 percent of the cost of transporting hay or forage purchased from a point of origin beyond a producer's normal trade area to the livestock, subject to the following limitations:

(A) The transportation assistance may not exceed $50 per ton of eligible hay or forage ($12.50 for silage).

(B) The quantity of eligible hay and forage for each producer may not exceed the lesser of—

(i) 20 pounds per day per eligible animal unit; or

(ii) the quantity of additional feed needed by the producer for the duration of the livestock emergency.

(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, except that such assistance may not exceed the lesser of—

(A) $24 per head of a producer's eligible livestock; or

(B) the local cost of the quantity of additional feed needed by the producer for the eligible livestock for duration of the livestock emergency.

(b) Feed grain through dealer or manufacturer; reimbursement; feed grain stored on farm of producer

If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a) of this section, the Secretary—

(1) may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation; or

(2) at the option of the livestock producer, shall provide for the furnishing of the feed grain through the use of feed grain stored on the farm of the producer that has been pledged as collateral for a price support loan made under this Act.

(c) Payments or reimbursements through issuance of negotiable certificates

In providing assistance under paragraph (2) or (4) of subsection (a) of this section, the Secretary may make in-kind payments or reimbursements through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with rules prescribed by the Secretary.

(d) Approved application prerequisite to benefits

No payment or benefit provided under this section shall be payable or due until such time as a completed application therefor has been approved.

(e) Time for application

A person eligible to receive a payment or benefit under this section with respect to a livestock emergency determined to exist prior to January 1, 1989, shall make application for such payment or benefit not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

(f) Livestock transportation assistance

The Secretary may make available at least $25,000,000 to provide livestock transportation assistance under subsection (a)(6) of this section for livestock emergencies in 1989.

(Oct. 31, 1949, ch. 792, title VI, § 606, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 928; amended Aug. 14, 1989, Pub. L. 101–82, title II, §§ 201, 202, 103 Stat. 581.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(2)(A) and (b)(2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–82, § 201, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a) of this section, the Secretary may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation.''

Subsec. (f). Pub. L. 101–82, § 202, added subsec. (f).

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsecs. (a)(2)(A) and (e) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

EMERGENCY FORAGE PROGRAM

Section 103 of Pub. L. 100–387 provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall implement an emergency forage program for established pasture damaged by the drought or related condition in 1988, under which the Secretary shall enter into cost-share agreements with owners or operators of such damaged land to provide for reseeding of forage crops on such land to facilitate late fall 1988 and early spring 1989 grazing and haying. Assistance may be provided to such owners and operators only when—

''(1) the forage crop will not regenerate naturally;

''(2) reseeding is the most cost-effective method to reestablish the forage crop; and

''(3) reseeding is not undertaken simply to improve the forage crop damaged by the drought.

''(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer, and other inputs on reseeded pasture.

''(c) LIMITATIONS.—(1) The total amount of payments an owner or operator of pasture land shall be entitled to receive under this section shall be $3,500.

''(2) The Secretary may cost-share for reseeding under this section only if the reseeding is to nonannual crops planted for pasture purposes.

''(d) FUNDING.—(1) The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

''(2) Not more than $50,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

''(3) To ensure the equitable award of funds under agreements under this section, as limited under paragraph (2), the Secretary may prorate, and adopt procedures to facilitate proration of, funds made available under this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471b, 1471c, 1471e of this title.

§ 1471e. Additional assistance

(a) Determination by Secretary

In addition to the assistance provided under section 1471d of this title, if the Secretary determines that the livestock emergency also requires the implementation of one or more of the assistance programs described in subsection (b) of this section, the Secretary shall implement such programs.

(b) Programs authorized

Special assistance under this section includes—

(1) the donation of feed owned by the Commodity Credit Corporation for use in feeding livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary, by regulation, may prescribe;

(2) reimbursement of not to exceed 50 percent of the cost of—

(A) installing pipelines (if that is the least expensive method) or other facilities, including tanks or troughs, for livestock water;

(B) construction or deepening of wells or ponds for livestock water; or

(C) developing springs or seeps for livestock water,

as appropriate in drought areas to facilitate more efficient and better-distributed grazing on land normally used for grazing. Such cost-share assistance may not be made available to provide water for wildlife or recreational livestock, dry lot feeding, or barns or corrals, or to acquire pumping equipment;

(3) reimbursement of not to exceed 50 percent of the cost of burning prickly pear cactus to make it suitable for animal feed; and

(4) making commodities owned by the Commodity Credit Corporation available to livestock producers through the use of a catalog that specifies lots of a size that are economically feasible for a small producer to obtain by means of certificate exchanges.

(c) Water development projects for 1988 and 1989 emergencies

The Secretary may make available at least $25,000,000 to provide special assistance under subsection (b)(2) of this section for livestock emergencies in 1988 and 1989.

(Oct. 31, 1949, ch. 792, title VI, § 607, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 930; amended Aug. 14, 1989, Pub. L. 101–82, title I, § 142, title II, § 203, 103 Stat. 579, 581.)

AMENDMENTS

1989—Subsec. (b)(2)(B). Pub. L. 101–82, § 142, inserted ''or ponds''.

Subsec. (c). Pub. L. 101–82, § 203, added subsec. (c).

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471b, 1471c of this title.

§ 1471f. Use of Commodity Credit Corporation

The Secretary shall carry out this subchapter through the use of the funds, facilities, and authorities of the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title VI, § 608, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 930.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

§ 1471g. Benefits limitation

(a) Total amount of benefits

The total amount of benefits that a person shall be entitled to receive annually under one or more of the programs established under this subchapter may not exceed $50,000.

(b) Issuance of regulations

The Secretary shall issue regulations—

(1) defining the term ''person'', which shall conform, to the extent practicable, to the regulations defining the term ''person'' issued under section 1308 of this title, or successor statute;

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section; and

(3) providing that the term ''person'' shall include, in the case of any cooperative association of producers, each member of the association with respect to benefits due to such member of the association.

(c) Receipt of other disaster payments

No person may receive benefits under this subchapter attributable to lost production of a feed commodity due to a natural disaster in 1988 to the extent that such person receives a disaster payment under the Disaster Assistance Act of 1988 on such lost production.

(d) Total combined payment and benefits limitation

Each person otherwise eligible for a livestock emergency benefit under this subchapter in 1988 shall be subject to the combined payment and benefits limitation established under section 211(c) of the Disaster Assistance Act of 1988.

(Oct. 31, 1949, ch. 792, title VI, § 609, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 930.)

REFERENCES IN TEXT

The Disaster Assistance Act of 1988, referred to in subsecs. (c) and (d), is Pub. L. 100–387, Aug. 11, 1988, 102 Stat. 924. Section 211(c) of that act is set out as a note under section 1421 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsecs. (c) and (d) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

§ 1471h. Ineligibility

(a) Any person that has qualifying gross revenues in excess of $2,500,000 annually, as determined by the Secretary, shall not be eligible to receive any livestock emergency benefits under this subchapter.

(b) For purposes of this section, the term ''qualifying gross revenue'' means—

(1) if a majority of the person's annual income is received from farming and ranching operations, the gross revenue from the person's farming and ranching operations; and

(2) if less than a majority of the person's annual income is received from farming and ranching operations, the person's gross revenue from all sources.

(Oct. 31, 1949, ch. 792, title VI, § 610, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

§ 1471i. Administration

(a) Regulations

The Commodity Credit Corporation shall issue regulations to carry out this subchapter.

(b) Processing and decisions to be made as quickly as practicable

Such regulations shall establish procedures to ensure that the request for assistance by a Governor or county committee under section 1471b of this title, and individual applications of livestock producers under section 1471c of this title for assistance, are processed and decisions thereon are made as quickly as practicable.

(c) Indigenous plants not considered feed on hand

For purposes of this subchapter, indigenous plants available to a livestock producer but not normally consumed by livestock as feed, such as cactus, may not be considered as feed on hand for such producers.

(Oct. 31, 1949, ch. 792, title VI, § 611, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

§ 1471j. Penalties

A person that disposes of any feed made available to a livestock producer under this subchapter other than as authorized by the Secretary shall be (1) subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose, and (2) guilty of a misdemeanor and, on conviction thereof, subject to a fine of not more than $1,000, or imprisonment for not more than one year, or both.

(Oct. 31, 1949, ch. 792, title VI, § 612, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

CHAPTER 36—CROP INSURANCE

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